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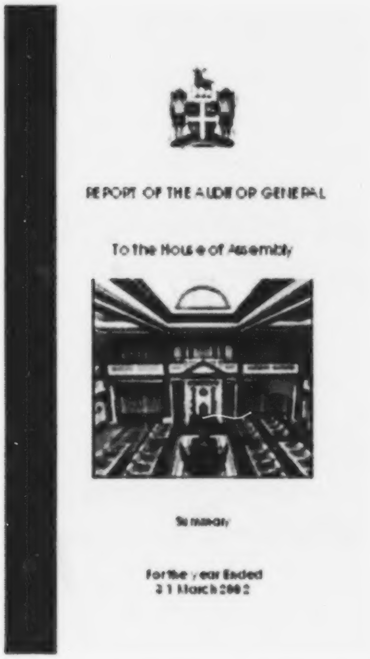

REPORT OF THE AUDITOR GENERAL

To the House of Assembly

Summary

For the Year Ended
31 March 2002

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Preface

This document is presented as a summary of the *Report of the Auditor General to the House of Assembly on Reviews of Departments and Crown Agencies for the Year Ended 31 March 2002*. That Report contains approximately 325 pages of conclusions, commentary, recommendations and auditees' comments. This document contains summary information on each item included in the Report. When readers identify a topic of interest, we encourage them to read the relevant section in the Report.

Introduction

The *Report of the Auditor General to the House of Assembly on Reviews of Departments and Crown Agencies for the Year Ended 31 March 2002* was prepared in compliance with Section 12 of the *Auditor General Act*. Section 12 requires that the Report outline significant matters noted during the course of examining the accounts of the Province, agencies of the Crown and other entities which, in our opinion, should be brought to the attention of the House of Assembly.

Comments on the audit of the financial statements of the Province are contained in a separate report entitled *Report of the Auditor General to the House of Assembly on the Audit of the Financial Statements of the Province for the Year Ended 31 March 2002* which was tabled in the House of Assembly on 25 November 2002.

Chapter 1

Reflections of the Auditor General

This Chapter provides an introduction to the Report and provides a summary of issues considered by the Auditor General to be of greatest concern. The issues identified are as follows:

1. Accountability

Again this year, Government has not provided the Members of the House of Assembly with information that could be used to assess its performance. Government does not have any legislative requirement for any of its departments or Crown agencies to provide annual performance plans or performance reports for tabling in the House of Assembly.

To put the matter in perspective, there were no performance plans tabled in the House of Assembly during the year and, of the 20 Government departments, the House of Assembly and the 83 Crown agencies receiving approximately $4 billion, only 1 Department and 9 Crown agencies receiving a total of approximately $6.4 million, had an annual report for 2001 tabled. In my opinion, this represents a significant lack of information which is required by the Members of the House of Assembly in order to assess Government's actual performance relative to a performance plan.

I believe Government should have a legislative framework which requires the tabling of annual performance plans and performance reports in the House of Assembly for all Government departments and Crown agencies.

2. Legislation

There are two pieces of legislation which set rules relating to the financial operations of Government - the *Financial Administration Act* and the *Public Tender Act*. As in other years, my Office continues to identify instances where Government and its agencies have contravened these Acts.

There were a number of examples during the year where Government contravened the *Financial Administration Act* including the issuance of special warrants, in instances where, in my opinion, there was no urgent requirement, Government entities borrowing without authority, and funds provided under the Special Assistance Fund for purposes other than that authorized by the Legislature.

Examples were also found where Government and its agencies contravened the *Public Tender Act*

I am concerned that Government continues to contravene the *Financial Administration Act* and the *Public Tender Act*.

3. Board Deficits

As in previous years, my Office continues to monitor the financial position and operating results of the Province's eight hospital boards, four community health care boards and eleven school boards. The financial position and operating results of these boards continues to deteriorate although funding to these boards has increased. The annual deficit shows the extent to which these boards spend more than the revenue they receive from Government and other sources in one fiscal year - it shows that these boards are not living within their means. I believe that spending within its means should be a priority for Government.

Chapter 2

Comments on Audits and Additional Examinations

2.1 Framework of Accountability

In previous Reports to the House of Assembly, my Office has expressed concern over the lack of information being provided to the House of Assembly by Government departments, Crown agencies and Memorial University of Newfoundland, all of which are funded primarily by the public purse.

We have also recommended the implementation of a legislated accountability framework. This framework should include a strategic and operational planning process, clearly defined objectives, measurement criteria, a financial budget and a reporting system which provides appropriate information at various levels. The reporting process should include reports to the House of Assembly.

Our review this year indicated that, with the exception of the Public Service Commission, no departments and only 9 of 83 Crown agencies prepared and tabled annual reports for 2001 in the House of Assembly. As a result, reports on only $6.4 million of the $4 billion provided by the Legislature were tabled in the House of Assembly.

While other jurisdictions have been developing and implementing ways to modernize and improve their performance reporting, as far as reporting information to the House of Assembly is concerned, this Province is now further behind than it was in the 1980's and early 1990's, when some departments were preparing and tabling some form of annual report in the House of Assembly.

In my opinion, the only way that this situation will ever be resolved is through legislation which specifically requires that Government departments, all Crown agencies and Memorial University of Newfoundland prepare and publish annual performance plans and performance reports and have them tabled in the House of Assembly.

We have also commented in past Reports on the creation of Crown agencies without enabling legislation. At the time of our review, 17 Crown agencies had been created in this manner.

In my opinion, all Crown agencies should be created under the authority of the Legislature through separate specific legislation. This legislation should authorize the creation of these entities, and establish their mandate, powers, duties, responsibilities and reporting requirements to the House of Assembly.

2.2 Special Warrants

The common parliamentary means of providing spending authority to government is through the annual passing of supply acts. This involves having the Members of the House of Assembly vote on the government's funding requests before the spending authority is provided. Approval by a majority of the Members of the House of Assembly is needed to pass an Act.

Through the use of a "special warrant", Government can, without the prior debate and approval of the Members of the House of Assembly, spend public money.

Government's use of special warrants remains at a significant level. In previous reports, our Office has expressed concern that many of these special warrants did not meet the requirements of the *Financial Administration Act*. We have also indicated that Government often uses special warrants, especially during the last month of each fiscal year, to reduce the cash surplus of Central Government and produce whatever financial results the Government desires.

Four special warrants totalling $33.1 million were issued in March 2002 in contravention of the *Financial Administration Act*, in that, in our opinion, there was no urgent requirement.

These special warrants were not presented at that time to the House of Assembly as either a Supplementary Supply Bill or included in the 2002-03 budget, both of which would have resulted in debate and approval. The opportunity for presentation to the House of Assembly for debate and approval was available.

2.3 Borrowing without Authority

The most recent financial statements of the 17 Crown agencies created under the *Corporations Act* disclosed that 4 of these entities had a total of $43.8 million in outstanding debt due to entities outside of the government reporting entity. If the enabling legislation of an agency does not provide specific authority for it to borrow funds or if it has been created under the *Corporations Act*, then the Crown agency does not have the legislative authority to borrow. The *Financial Administration Act* prohibits the raising of money by way of loan without legislative authority. As a result, these entities contravened the *Financial Administration Act* by borrowing money without legislative authority.

2.4 Monitoring Expenditures of the Consolidated Revenue Fund

As part of our audit of the financial statements of the Consolidated Revenue Fund (CRF), we perform tests and reviews of the expenditures made by the various departments.

During the past year, we obtained expenditure information from Government's accounting system relating to all expenditures of the Consolidated Revenue Fund. We performed a general review and analysis of amounts paid relating to: grants and subsidies; property, furnishings and equipment; purchased services; professional services; allowances and assistance; and transportation and communications.

The results of our review are presented in Part 2.4 of the *Report of the Auditor General to the House of Assembly on Reviews of Departments and Crown Agencies for the Year Ended 31 March 2002.*

2.5 Monitoring Agencies of the Crown

Most agencies of the Crown do not have any requirement to report to the House of Assembly on the discharge of their responsibilities. As a result, a major role of this Office is to monitor these entities in order to provide some accountability to the House of Assembly. Section 14 of the *Auditor General Act* requires the auditor of an agency of the Crown or a Crown controlled corporation to deliver to the Auditor General, after completion of the audit, a copy of the auditor's report, audited financial statements and recommendations to management. These financial statements and management letters along with our Office's audits of Crown agencies provide the basis for our monitoring of all Crown agencies.

As at 31 March 2002 there were approximately 154 (2001 - 151) agencies of the Crown in the Province. Of these, 87 (2001 - 85) were required to prepare annual financial statements, while the remaining 67 (2001 - 66) were considered non-financial and did not prepare financial statements. Any expenditures related to the operation of these 67 non-financial entities are included with those of the Government department responsible for the entity and are audited annually as part of our audit of the public accounts of the Province.

Information contained in the audited financial statements and management letters of Crown agencies is maintained in our computerized system and provides the basis for our monitoring of all Crown agencies.

Of the 87 entities required to prepare annual financial statements, 32 (2001 - 31) were audited by our Office while 53 (2001 - 52) were audited by private sector auditors. Contrary to their governing legislation, the remaining 2 entities, the Memorial University Foundation and the Newfoundland and Labrador Occupational Therapy Board have never submitted audited financial statements.

As of 9 December 2002, the required audited financial statements had not been received from the private sector auditors for 4 of the 53 entities and the required management letters had not been received for 5 of the 53 entities.

Furthermore, the majority of audited financial statements and management letters that were received from the private sector auditors were not received on a timely basis. On average, audits are completed and the auditors' reports signed within three months after the year end. However, in most cases the financial statements and related management letters are not sent to our Office until another four months after the audit report date, and often as a result of follow-up by our Office.

As part of our monitoring of Crown agencies, we review audited financial statements and management letters resulting from audits completed by either private sector auditors or by our Office.

The highlights from our review of audited financial statements and management letters of Crown agencies are presented in Part 2.5 of the *Report of the Auditor General to the House of Assembly on Reviews of Departments and Crown Agencies for the Year Ended 31 March 2002.*

2.6 Accounts and Loans Receivable in Government

At 31 March 2002 Government was owed $488 million of which $260 million is considered to be uncollectible. In addition, since 1992, Government has written off a total of $235 million.

Our review disclosed that Government has written off $235 million owed to it during the past 11 years. In addition, Government was owed $488 million as of 31 March 2002 of which $260 million was considered doubtful of collection. In my opinion, Government does not do a good job of collecting amounts owed to it. As a result, a significant portion of these amounts have been written off or are considered doubtful of collection.

2.7 Monitoring School Boards

In 1996 the school system in the Province was reorganized with the dissolution of 27 church run school boards and the creation of 10 new English language school boards and one French language school board. The 27 school boards continued to exist and administer the schools within their jurisdiction until their dissolution on 31 December 1996. Prior to the dissolution of the 27 school boards, there were approximately 445 schools in the Province with a total enrolment of 110,450 students. As at 30 September 2001, there were 326 schools with a student enrolment of 86,898. The number of schools and student enrolment have declined by 27% and 21% respectively, in the past six years.

Our review of school boards in 2002 included an assessment and comparison of the financial position and operating results of each of the 11 boards.

The 11 school boards had accumulated deficits totalling $100.971 million for the year ended 30 June 2002. This is comprised of $99.071million in accrued severance pay and leave and a net accumulated operating deficit of $1.900 million.

2.8 Contaminated Sites

The Department of Environment is responsible for protecting, conserving and enhancing the Province's environment including controlling and managing substances and activities that may pollute the environment. A key function of controlling and managing pollution is the management of contaminated sites.

There is no central inventory for contaminated sites that are the responsibility of the Province or those that are the responsibility of private owners. The lack of a central inventory makes it more difficult for Government to determine the nature and extent of contaminated sites in the Province, the extent of progress of remediation efforts, and estimated future remediation costs to be incurred by Government.

As of the date of our audit, Government had identified future remediation costs of $37.4 million; however, with the exception of the former Hope Brook Gold Mine property, this estimate does not include any amount that may be required to rehabilitate an estimated 10 other sites which are anticipated to have remediation costs but for which no formal site assessments have been performed. In addition, Government officials could not provide estimates for the remediation of the former U.S. Military bases located at West Bay and Jerry's Nose, or for fuel storage tanks and various Government-owned buildings throughout the Province.

2.9 Multi-Materials Stewardship Board

On 15 January 1997, Government implemented a Beverage Container Control Program in the Province. Under this Program, the consumer pays a deposit on specified beverage containers. Upon returning a beverage container to one of the 37 established depots in the Province, consumers receive a refund of a portion of the deposit. These containers are then transported from the depots to centres for processing.

In addition to paying refunds to consumers, deposits, along with proceeds from the sale of collected containers, are used to support the operating costs of the Beverage Container Control Program. All excess monies are to be paid into the Newfoundland and Labrador Waste Management Trust Fund as directed by Government. This Trust Fund was established for the purpose of providing funds for Government approved waste management initiatives and is administered under the Waste Management Act.

To manage the Beverage Container Control Program and the Waste Management Trust Fund, Government established the Multi-Materials Stewardship Board on 18 June 1996.

In 1996, Government established target recovery rates for beverage containers sold at 50% for 1997, 60% for 1998, 70% for 1999, and 80% for 2000. During the early years of the Beverage Container Control Program, the rate of container returns stagnated at less than 50%. Despite initiatives by Government, including increased marketing and increased deposit refund rates to consumers, the actual recovery rate for beverage containers for 2002 of 61% is still well below the targeted recovery rate of 80%.

In delivering the Beverage Container Control Program, the Board has entered into several contracts. The Board did not always comply with the *Public Tender Act* in awarding these contracts.

In 2002, the Board developed a Used Tire Recycling Program. The initial proposal call for this Program indicated that prior to the award of the contract in February 2002, the Board did not have current legal information related to the successful bidder. The successful bidder later withdrew from the contract on 15 May 2002 citing difficulties in establishing their planned collection system.

In June 2002, a second proposal call was issued. Of the three proposals that had been received, only one included all the required information and was further assessed by an evaluation committee of the Board. This Committee advised the Minister not to accept this proposal and further recommended that the tender should be reissued. In August 2002, the Deputy Minister of Environment informed the Board of the Department's decision to award the contract to the only bidder. Board officials indicate that although they were informed that the decision had been approved by the Minister and Cabinet, they were not provided with any explanation as to how the Board's concerns with the proposal had been addressed.

Although the Board and the Department have established guidelines to determine eligibility for project funding, we found instances where projects were approved directly by the Minister without any assessment being completed by the Board to determine whether the project met these project guidelines.

2.10 Forestry Management

The forest sector is one of the Province's largest resource industries. The forest sector consists of two main industries, newsprint and lumber. During the 2000-01 fiscal year newsprint shipments were $675 million and lumber sales exceeded $40 million. The main commercial users of the Province's forests are Corner Brook Pulp and Paper Company Limited and Abitibi Consolidated Company of Canada and approximately 800 commercial sawmills.

The Province manages the forests by maintaining forest inventories, establishing an annual allowable cut (AAC) and carrying out a silviculture program. Silviculture activities are designed to ensure the proper regeneration and enhancement of the forest after harvesting or destruction through fires or insect infestations.

The Department has established objectives for the long-term development and sustainability of the Province's forest and has implemented a structured planning process to support its objectives. However, a review of actions taken to meet the objectives indicated that the Department has not been successful in alleviating the wood supply deficit. Since the first plan was developed in 1985, the approved AAC has declined more than 27%. This indicates that the forests cannot sustain the cutting levels that were attainable in the mid-eighties.

The Department did not achieve the planned results from its silviculture expenditures for the period 1996 to 2000. The Department received 80% of the planned funding; however, only 69% of the planned silviculture activity was undertaken. The Department planned to treat 98,408 hectares at a cost of $75 million ($762 per hectare); however, only 67,704 hectares were treated at a cost of $60.1 million ($888 per hectare).

Forest management program activities are not adequately monitored and reported. Specifically, the Department does not verify harvest levels reported by the companies, there is no reconciliation between what sawmill operators produce to amounts reported as harvested, there is minimal enforcement of harvesting on company land, field inspections are not always completed as required by policy, and the Department has not prepared an annual report since 1999-00 nor has it provided an annual report on program activities to the House of Assembly.

There were also instances of non-compliance with legislation and Departmental policy. Although legislation requires the development of 20 year management plan reports, five year operating plans and annual operating plans, we found that 11 of the 24 districts did not have a 20 year management plan report, 11 of 36 five year operating plans were not prepared and 5 of 16 Crown districts did not have an annual operating plan for 2001-02.

2.11 Newfoundland and Labrador Farm Products Corporation

Newfoundland and Labrador Farm Products Corporation (the Corporation) was established in 1963 under the *Farm Products Corporation Act*. In 1996, a new Board of Directors was appointed and given the mandate to pursue privatization. In April 1997, the Corporation closed its Corner Brook plant. In October 1997, the Corporation sold the assets of its St. John's plant to Integrated Poultry Limited. At that point, Government entered into a number of agreements with Integrated Poultry Limited for the operation of the St. John's plant. In February 2000, Integrated Poultry Limited was placed in receivership and in March 2000, the assets were sold to 10874 Newfoundland Inc. (now known as Country Ribbon Inc.). As part of this sale, and in accordance with previous agreements in place, Government entered into an agreement with 10874 Newfoundland Inc. (now known as Country Ribbon Inc.).

The Corporation could not determine whether Country Ribbon Inc. had complied with the requirements contained in the Agreement as the information provided by the Company was not independently verified.

During 2001-02 Government wrote off amounts totalling $928,597 owed by Integrated Poultry Limited and Newfoundland and Labrador Farm Products Corporation. In March 2002, Cabinet directed the Department of Finance to provide funding of $200,000 to Farm Products Corporation to pay expenses related to the Corner Brook facilities up to 30 September 2003.

2.12 Prepaid Funeral Services

The Department of Government Services and Lands is responsible for a number of Government's services to the public, including protection of consumers. The Department's Trade Practices and Licencing Division is responsible for the administration of the prepaid funeral services program. This includes the licensing and regulating of funeral homes to sell prepaid funerals.

The *Prepaid Funeral Services Act* was assented to on 12 May 2000 and came into force on 22 December 2000. One of the main purposes of the legislation is to protect consumers who have entered into prepaid funeral contracts from financial loss, in the event of the failure of a funeral home.

Over the past five years, there were an average of 4,340 deaths per year in the Province. Documentation on file at the Department indicates that there are currently 91 funeral homes in operation in the Province which have approximately 6,250 prepaid funeral service contracts outstanding.

At the time of our review in March 2002, the Department had made very little progress with the implementation and administration of the prepaid funeral services program. Only 28 of the 91 funeral homes in the Province had submitted licence applications. Of these 28, 27 were licensed although only 4 of these homes had fully complied with all requirements of the *Prepaid Funeral Services Act* and *Regulations*. Furthermore, while all of the 27 licensed funeral homes have paid their required licence fee, 13 have not paid the required Assurance Fund assessment.

A total of $137,830 was paid from the Assurance Fund bank account from 6 April 2001, the date the account was established, to 31 March 2002. These payments were for claims arising from prepaid funeral contracts resulting from the failure of a funeral home in Port aux Basques in November 2000. At that time 88 consumers had purchased prepaid funerals from the funeral home valued at a total of $492,790. The $137,830 paid from the Fund related to 23 of the 88 contracts. Although the Act did not come into effect until December 2000, an amendment was made in May 2001 to retroactively honour claims against licensed funeral homes as though the Act had come into effect on 1 November 2000. However, the failed Port aux Basques funeral home was never licensed under the Act. Therefore, there was no authority under the Act for payments to be made based on claims arising from the failure of the funeral home.

2.13 Eastern Residential Support Board

There are currently five entities throughout the Province which provide co-operative apartment programs for persons with developmental disabilities. The co-operative apartment program provides for a private residential setting operated by an incorporated community board and staffed by a live-in supervisor and relief staff. The program is not meant to provide permanent homes and the main emphasis is on skill teaching and support to enable more independent living. One of the five entities, the Eastern Residential Support Board Inc., received $9.2 million in Government funding for the year ended 31 March 2002.

At March 2002 the Board was providing a co-operative apartment program for 43 residents housed in 18 units.

Expenditures at the Eastern Residential Support Board Inc. have increased from $5.7 million in 1999 to $9.2 million in 2002, an increase of 61%. However, during this period the number of residents remained relatively constant. Average expenditures per resident have also increased from

$143,000 in 1999 to $213,000 in 2002, an increase of 49%.

The Board is not operating in accordance with the objectives of the co-operative apartment program under which it is being funded. For example, while the program is not meant to provide permanent homes to residents, no resident of the Board has left the co-operative apartment program to move to a more independent living arrangement. Furthermore, the program is not intended to provide 24 hour a day supervision; however, 40 of the 43 residents are receiving 24 hour a day supervision.

The Department of Health and Community Services is not adequately monitoring activities of the Board as it does not receive financial and performance information from the Board on a timely basis. Furthermore, there is no service agreement between the Board and the Department to outline the roles and responsibilities of each party and to provide guidance for the delivery of the co-operative apartment program.

2.14 Monitoring Health and Community Services Boards

There are four health and community services boards in the Province comprised of St. John's, Eastern, Central and Western Regions. Each of these boards has local offices throughout the Province. Health and Community Services in Northern Newfoundland and Labrador are administered as separate components of the Grenfell Regional Health Services Board and the Health Labrador Corporation, respectively.

The financial position and operating results of the four health and community services boards is continuing to deteriorate even though funding has increased substantially. The total net liabilities of the four boards increased from $19.8 million at 31 March 2001 to $22.2 million at 31 March 2002. These net liabilities will eventually have to be funded by Government.

Government funding provided to the boards increased from $165.3 million in 2000-01 to $183.8 in 2001-02. Although additional funding of $18.5 million was provided over the previous year's amount, these boards still incurred operating deficits totalling $3.1 million for the year ended 31 March 2002.

2.15 Monitoring Hospital Boards

From 1 November 1994 to 1 January 1996 the Government of Newfoundland and Labrador established eight regional health care institutions boards to administer health care facilities in Newfoundland and Labrador. These boards took over the facilities previously administered by many small local boards.

The financial position of the eight hospital boards is continuing to deteriorate even though funding has increased substantially. The total net liabilities of the eight boards has increased from $366.1 million at 31 March 2001 to $391.3 million at 31 March 2002. These net liabilities will eventually have to be funded by Government.

Government funding provided to the boards increased from $692.7 million in 2000-01 to $784.9 million in 2001-02. Although additional funding of $92.2 million was provided over the previous year's amount, these boards still incurred operating deficits totalling $16.5 million for the year ended 31 March 2002.

2.16 Residents' Trust Accounts

The Provincial Health Care Institutions and the Department of Health and Community Services administer a number of trust funds on behalf of residents in nursing homes or other health care facilities. Trust funds are not owned by the Institution or the Department but are the property of these residents and have been assigned to the Institutions and the Department as "trustee" for administration under an agreement or policy. As a result, the Institutions and the Department are accountable to these residents for the use and disposition of the trust assets and any funds derived from trust activities. The Provincial Health Care Institutions and the Department of Health and Community Services held $3.5 million in residents' trust accounts at 31 March 2002 ($3.6 million 31 March 2001).

The procedures and systems in place to manage and control residents' trust accounts require improvement.

2.17 Enterprise Newfoundland and Labrador Portfolio Review

The Annual Report of the Auditor General to the House of Assembly for the year ended 31 March 1999 included a report on Enterprise Newfoundland and Labrador's loan portfolio funded through the former Department of Development and Rural Renewal's Strategic Enterprise Development Fund. Since 1999, my Office has completed reviews of several investments made through ENL's loan portfolio. In the current year, we performed a review of two additional investments. Our review indicated the following:

Company A

In October 1992, Enterprise Newfoundland and Labrador (ENL) made its first loan of $500,000 to the Company to purchase equipment.

Since the initial loan of $500,000 in 1992, ENL has advanced five additional loans totaling $949,365. In addition to this $1,449,365 in loans, ENL also paid professional fees of $29,343 on behalf of the Company. In addition, interest charges of $976,849 have been added to these loans. As at 31 March 2002, ENL had recovered only $233,300 of its investment resulting in a balance owing of $2.22 million comprised of $1.32 million in principal and $0.9 million in interest. The Company has not made any payments since October 1998 and the entire outstanding balance is considered by ENL to be doubtful of collection.

Our review indicated that ENL decided to provide additional loans to the Company after the Company failed to comply with repayment terms of its previous loans. In addition, although the Company failed to comply with the terms of the loan agreements regarding loan repayments, submission of financial information, and insurance on secured property, ENL has decided not to take action to recover its investment through its claim on the Company's assets.

Company B

Enterprise Newfoundland and Labrador Corporation (ENL) initially became involved in the Company in 1990 when the former Newfoundland and Labrador Development Corporation, a predecessor company of ENL, approved a $500,000 loan to assist with the acquisition of assets and to provide operating funds.

In March 1993, ENL provided an additional $300,000 loan for the purchase of equipment. ENL also paid legal fees of $4,766 on behalf of the Company. In addition, interest charges of $830,784 have been added to these loans.

In May 1999, ENL wrote off $548,388 in amounts owing from the Company and converted the remaining debt of $730,689 into an equity investment in the Company. As at 31 March 2002, ENL had recovered $396,072 of its investment resulting in a balance owing of $691,090.

Additional loans were made to the Company although the Company failed to comply with repayment terms of previous loans. In addition, although the Company failed to comply with repayment terms, ENL decided not to take action to recover its investment through its claim on the Company's assets and subsequently relinquished its security in favour of other creditors.

2.18 Sale of Marystown Shipyard Facilities

Government's involvement with the Marystown shipyard facilities began in 1966 with the construction of the shipyard. The shipyard became operational in 1968, with the fabrication/offshore service facilities being added in 1993 at Cow Head. All significant capital assets at the facilities were owned directly by a Government Crown agency, Newfoundland and Labrador Ocean Enterprises Limited.

Since 1966 Government has provided the Marystown facilities with $185.9 million in assistance. In 1997, Government sold the facilities to Friede Goldman for $1. The sale agreements contained provisions with respect to minimum man hour requirements, payment of net after tax profit of the facilities relating to the year ended March 1998, completion of specified upgrades and repairs and investment in capital improvements, and provision to Government of at least 90 days notice of any intended cessation of operations. Although at that time, assets with a cost of $86 million were transferred to the Company, there was no provision for the assets to be returned to the Province in the event the Company did not comply with the agreements or if the Company decided to sell the facilities.

Friede Goldman did not meet the employment targets for 1999 and 2000 and was required by the agreements to pay the Province $10 million. In March 2002, Friede Goldman sold the Marystown facilities to Peter Kiewit Sons Co. Ltd. To facilitate the sale, Government released Friede Goldman from its $10 million liability. As well, as at 31 March 2002, Government has provided Newfoundland and Labrador Ocean Enterprises Limited with a performance guarantee of $7 million and a loan guarantee of $4.85 million.

As a result of these transactions, at 31 March 2002, the Province has no claim on the Marystown facilities and has no employment or investment guarantees from the current operator.

2.19 Royal Newfoundland Constabulary Firearms Review

The Royal Newfoundland Constabulary was established in 1871. The mission of the Royal Newfoundland Constabulary is to work with communities in Newfoundland and Labrador to foster safe communities by providing quality, professional, accessible, timely and fair police services to all. The Royal Newfoundland Constabulary is responsible for policing three regions of the Province - the North East Avalon, Corner Brook and Labrador West. The population of these regions is approximately 201,000 (2001 census). In providing these services, the Royal Newfoundland Constabulary currently employs 305 police members, 9 temporary recruits and 81 civilian staff.

In 1998, members of the Royal Newfoundland Constabulary were permitted to wear firearms as part of their regular uniform. The Select Committee of the House of Assembly which recommended the new arming policy also recommended that a firearms audit be performed annually and submitted to the House of Assembly. As a result, this is our fourth annual firearms audit.

In our three previous audits we reviewed the firearms policy of the Royal Newfoundland Constabulary and reported a number of issues which had to be addressed. Although the Royal Newfoundland Constabulary has adequate systems in place to record, monitor and secure its firearms, we continue to identify instances of non-compliance with policy. Given the serious repercussions that could result from the use of firearms, it is critical that the Royal Newfoundland Constabulary continue efforts to improve compliance with established policies and procedures.

2.20 Workplace Health and Safety Inspections

The Department of Labour is responsible for monitoring and improving conditions in the workplace through the development and application of various health and safety codes, practices and standards. The Department pursues this responsibility through the administration and enforcement of the *Occupational Health and Safety Act* and *Regulations* and other related legislation.

The *Occupational Health and Safety Act* and *Regulations* outline rights and responsibilities of both employers and workers, as well as the responsibilities of the Department through its Workplace Health and Safety Inspection Division. Division activities provide for development and implementation of policies and plans associated with workplace health and safety, and monitoring and improving safety conditions through inspections of worksites to ensure compliance with applicable legislation.

Our review indicated that activities at the Workplace Health and Safety Inspection Division require improvement to meet the Department's responsibilities for monitoring and improving conditions in the workplace. In particular, information on employer workplaces in the Province maintained by the Division is neither complete nor current, the required inspection activity identified by the Division as a priority was not performed, regular inspections are not based on any comprehensive risk analysis, significant delays were identified in documenting inspection activity, and information in the Division's information system is neither accurate nor updated on a current basis. As well, the Division cannot demonstrate whether employers are complying with the *Occupational Health and Safety Act* and *Regulations* as inspection reports are not always fully completed by the occupational health and safety officers and the inspection report does not provide a listing of the main areas for inspection under the *Act* and *Regulations* to ensure these areas have been covered during the inspection.

In addition, the Division is not providing adequate and appropriate information to the Department on workplace health and safety inspection activity and there are no reports on Division activities provided to the House of Assembly.

2.21 Workplace Health, Safety and Compensation Commission

The Workplace Health, Safety and Compensation Commission was established in 1951. The Commission is responsible for administering programs for the payment of benefits to injured workers and dependants, rehabilitation of injured workers, setting rates and collecting employer assessments, and making investments necessary to ensure adequate funding for services.

The Commission is funded through employer assessments and income earned on investments maintained in an investment portfolio.

In the early 1990s, the Commission found that, due to a lack of historical claim information, it was not able to reasonably estimate the future costs associated with injuries which had already occurred. However, actuarial studies carried out estimated the future liabilities of the Commission including the portion of the future liabilities for which there was no funding. This is referred to as the "unfunded liability."

In 1991, the Commission developed a strategy to address its unfunded liability, which at that time was $176 million. Although the Commission made progress in reducing its unfunded liability to $92 million by 1997, by 2001 the unfunded liability had increased to $200 million.

The Commission concluded that the strategy developed in 1991 to eliminate the unfunded liability was no longer attainable. A Task Force was established in 2000 to address the overall workers' compensation system, including the unfunded liability. To complement the findings of the Task Force, the Commission developed a five year strategic plan for 2002-06. The strategic plan outlines various goals which, if achieved, will reduce the unfunded liability. Although the plan does not quantify the reduction in the unfunded liability or the time frame over which this reduction will be achieved, Commission officials indicated that its strategy is to eliminate the unfunded liability by 2020.

The unfunded liability of the Commission has to be closely monitored, on a priority basis, by the Commission and Government to ensure the continued viability of the workers' compensation system.

2.22 Expenditures Related to September 11th

On the morning of September 11, 2001 the world became aware of a series of plane crashes into the World Trade Center and the Pentagon in the United States. Shortly afterward, officials of this Province were notified that US airspace had been closed and that all US bound flights had been redirected. Officials were informed that a large number of aircraft could be expected to be diverted to

Newfoundland and Labrador.

The passengers and crew required food, medical care, clothing, accommodations, transportation and access to communications during their stay in the Province, which lasted approximately one week. These services were provided by Government, through its emergency response organization and departments, and by municipalities, volunteer groups and citizens.

We recognize that the diversion of aircraft to Newfoundland and Labrador on September 11, 2001, presented unique challenges to Government officials and others involved in responding to the provision of emergency services to the thousands of stranded passengers and crew. While the emergency situation resulted in instances where the acquisition of certain goods and services had to be made as emergency purchases, there was adequate time for officials to have controls in place to ensure that all payments were adequately supported and approved prior to payment.

Our review of the payments made in relation to the September 11 emergency indicated that, in certain instances, documentation used as support for payments was inadequate. The documentation was considered inadequate in that it did not have sufficient information or detail in support of the amount claimed. We also noted instances where duplicate payments were made to suppliers.

2.23 Special Assistance Fund

The Department of Municipal and Provincial Affairs administers a Special Assistance Fund under the Municipal Financial Assistance Program. Funding for this Program is authorized by the Legislature through the annual Estimates process. The Special Assistance Fund is intended to provide grants to municipalities to assist them in dealing with emergencies of a health and/or life safety nature, general emergencies, and other initiatives as well as to assist municipalities which are experiencing financial difficulties.

Our review indicated that the Department is providing funding to groups other than municipalities. The percentage of total funding allocated to these non-municipality groups has increased from 21% in 1999 to 56% in 2002. Although the Special Assistance Fund is budgeted under the Municipal Financial Assistance Program, in 2002, less than one half of the funding was paid to municipalities. As the funds provided for in this account were not used for the purposes authorized by the Legislature, the Department contravened the *Financial Administration Act*.

The Department is not complying with the Program Guidelines in the assessment, approval, and monitoring of projects. As well, the Department was not consistent in the approval of applications.

2.24 Marble Mountain Development Corporation

The Marble Mountain Development Corporation (the Corporation) was incorporated in April 1988 and is a 100% provincially owned Crown corporation. The principal activity of the Corporation at that time was to develop the infrastructure of the Marble Mountain resort. In May 1993, the ski and retail operations of the resort area were assumed by the Corporation from a local ski club.

Since it began operations in 1988, Marble Mountain has received financial assistance totalling $37.1 million from the Provincial and Federal governments. In addition, a Provincial Crown agency performed infrastructure work at the condominium site at an estimated cost of $1.7 million. Government also provided a $300,000 loan to the Corporation to purchase equipment and has guaranteed the Corporation's line of credit which has increased from $300,000 in 1999 to $1.7 million in 2002.

Although the Province continues to provide significant operating funding to the Corporation, the Corporation continues to incur operating deficits.

The Corporation is not complying with the *Public Tender Act* as not all goods and services over $10,000 are being publicly tendered and the Corporation is not always informing the House of Assembly of exceptions.

2.25 The Straits of Belle Isle Marine Services

In April of 1997, the Federal and Provincial governments announced an agreement that transferred responsibility for Coastal Labrador Marine Service to the Province. As part of this agreement, the Province assumed responsibility for the passenger ferry service between St. Barbe, Newfoundland and Labrador and Blanc Sablon, Quebec. At the time this service was contracted to a private contractor. This service is seasonal and runs from 1 May, or as soon as ice conditions permit, to 3 January, or as long as ice conditions permit. The Department has the option to request service to commence as early as 15 April but to cease no later than 20 January.

The Province did not comply with the *Public Tender Act* in awarding the $17.8 million contract for the Strait of Belle Isle ferry service. The tender specifications indicated that the vessel could exceed 85 meters in length if it was capable of docking at the ramp in Blanc Sablon in the normal position for loading and offloading without the need to angle the vessel or compensate in other ways to enable effective ramp transfer. However, the tender was awarded to a contractor who indicated the vessel would be angled when docked at the wharf in Blanc Sablon.

The Department is not adequately monitoring the service to ensure payments are made only for services provided. Our review identified overpayments totalling $18,000.

The Contractor was paid $30,773 for wharf repairs at St. Barbe. These expenditures were not tendered as required by the *Public Tender Act*.

Chapter 3

Update on Prior Years' Report Items

This year we continued a process whereby our recommendations are monitored and the results reported within two years of the original report date. This chapter provides the results of this monitoring process relating to the recommendations contained in 2000 and prior *Reports of the Auditor General to the House of Assembly on Reviews of Departments and Crown Agencies.*

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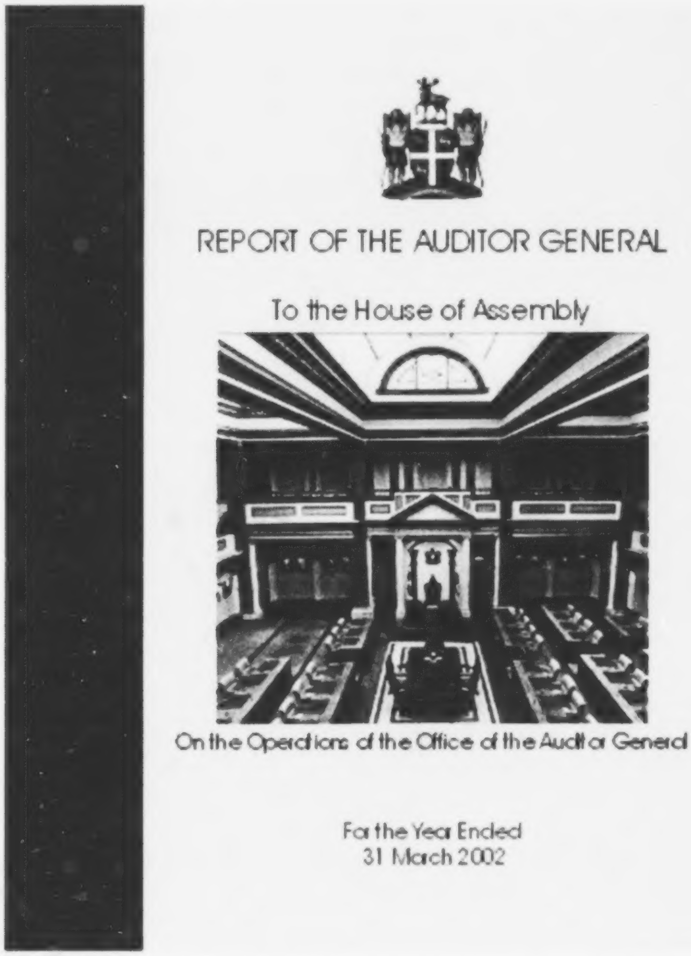

REPORT OF THE AUDITOR GENERAL

To the House of Assembly

On the Operations of the Office of the Auditor General

For the Year Ended
31 March 2002

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Reflections of the Auditor General

In prior years, information on the operations of the Office was included as a separate chapter in the Annual Report to the House of Assembly. This year, in an effort to provide more focus on the accountability of my Office, I am providing a separate report on its operations. My goal is to provide all members of the House of Assembly with a full accounting of what happened at the Office during the year - our plan, our budget and the results achieved.

The Office is proactive in planning and focussing its resources to achieve the objectives outlined in its strategic and operational plans. Chapter 4 of this Report provides a comparison of our performance against the goals established for our lines of business outlined in the Strategic Plan.

In order to complete our work, in 2002 the Office was provided with a budget of $2.5 million. The budget is provided by the Commission of Internal Economy and approved by the House of Assembly. Salaries for our 38 staff (33 in St. John's and 5 in Corner Brook) account for 81% of total expenditures. Chapter 5 of this Report provides information related to our financial accountability.

I am pleased with the performance of the Office during the first year of my tenure as Auditor General. The following are highlights of our accomplishments:

- The Office completed the audit of the Public Accounts of the Province for the year ended 31 March 2002 and issued the *Report on the Audit of the Financial Statements of the Province* which was tabled in the House of Assembly on 25 November 2002. This Report provided comments on Government's financial reporting, comments on selected financial information, information on key indicators of the state of Government's finances, and issues resulting from Government's focus on the Consolidated Revenue Fund. This Report highlighted that Government's budgeting practices were significantly inconsistent with its financial reporting practices and outlined the current state of the Province's deficit and debt.

- My *Report on Reviews of Departments and Crown Agencies* was tabled on 17 December 2002. This Report included 25 separate items as well as an update on the status of recommendations from prior years' report items. This Report highlighted that Government does not have a legislative accountability framework and also outlined instances of non-compliance with legislation.

- The Office completed the financial statement audit of 32 Crown agencies. Issues identified during these audits were reported to management for their consideration. The Office also reviewed the financial statements and management letters for 53 Crown agencies which were audited by private sector auditors. Information relating to these reviews was included in Section 2.5 of my Annual Report.

Reflections of the Auditor General

- In September 2002, for the first time, all jurisdictions in Canada reported on a set of comparable health indicators. The Office performed a review of the Province's *Report on Comparable Health and Health System Indicators*. While my Report acknowledged that this was an important accountability initiative for the Province, I indicated that improvements are required in the completeness and reliability of data reported.

As an Officer of the House of Assembly, the Auditor General provides an independent, unbiased, and informed opinion on matters that are considered to be significant to the members of the House of Assembly. The Office is committed to promoting accountability and encouraging positive change in the stewardship, management and use of public resources. I would welcome feedback from any member of the House of Assembly that would assist me with this goal.

In closing, I wish to thank my staff for their hard work, professionalism and dedication. I would also like to recognize my predecessor, Ms. Elizabeth Marshall, who retired in March 2002. Ms. Marshall spent ten years as Auditor General and was well respected for her professionalism and tireless work ethic. During her term, Ms. Marshall undertook many initiatives at the Office to improve systems and processes. On behalf of all staff at the Office, I thank Ms. Marshall for her skilled guidance and excellent contribution during her tenure.

JOHN L. NOSEWORTHY, C.A.
Auditor General

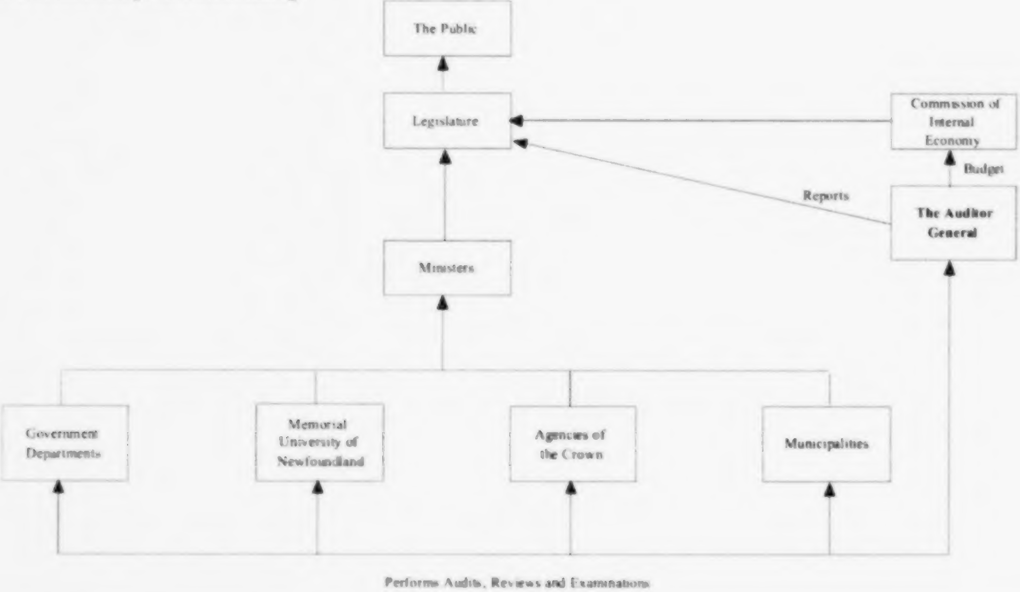
Our Mandate

The Office of the Auditor General operates under the authority of the *Auditor General Act* which was assented to 31 October 1991. The full text of the *Auditor General Act* is presented as Appendix I to this Report. The Auditor General is appointed for a 10 year non-renewable term as an officer of the House of Assembly and is the independent Legislative Auditor of Government, its departments, all agencies of the Crown and Memorial University of Newfoundland. Implicit in the *Auditor General Act* is the requirement for the Auditor General to provide the House of Assembly with timely, relevant information, necessary to enhance public sector accountability and performance.

Public sector accountability is based on the premise that governing bodies are best served by knowing whether the responsibilities conferred on government departments and agencies are satisfactorily performed and intended results are achieved. The Auditor General brings an independent audit process to the manner in which these conferred responsibilities are discharged in the public sector and reports directly to the House of Assembly on the results of these audits. The role of the Auditor General complements the accountability relationship which exists between Government, its departments, agencies of the Crown, Memorial University of Newfoundland, municipalities, and the House of Assembly, as illustrated in Figure 1.

Figure 1

Office of the Auditor General Accountability Relationship


The Public
Legislature
Commission of Internal Economy
Budget
Reports
The Auditor General
Ministers
Government Departments
Memorial University of Newfoundland
Agencies of the Crown
Municipalities
Performs Audits, Reviews and Examinations

Our Mandate

The Auditor General reports to the House of Assembly on significant matters which result from the examinations of Government, its departments and agencies of the Crown and Crown controlled corporations.

The Auditor General is also the independent auditor of the Province's financial statements and the financial statements of many agencies of the Crown and, as such, expresses an opinion on these financial statements.

A list of Departmental audits performed by our Office is included as Appendix II. A list of agencies of the Crown and other entities whose financial statement audits are performed by our Office is included as Appendix III. A list of agencies of the Crown and other entities whose financial statement audits are performed by private sector auditors is included as Appendix IV.

Section 12 of the *Auditor General Act* requires the Auditor General to report, at least annually, on:

- the work of the office;
- whether, in carrying out the work of the office, the Auditor General received all the information including reports and explanations required;
- the results of the examination of the Province's financial statements;
- audits, examinations and inquiries performed under the Act; and
- the results of the examination of the accounts of the Province calling attention to anything the Auditor General considers significant relating to:
    - collections of public money;
    - disbursements of public money;
    - instances where accounts have not been faithfully and properly kept;
    - instances where assets acquired, administered or otherwise held are not adequately safeguarded or accounted for;

Our Mandate

- instances where accounting systems and management control systems that relate to revenue, disbursements, the safeguarding or use of assets or the determination of liabilities were not in existence, were inadequate or had not been complied with; and

- any factors or circumstances relating to an expenditure of public money which in the opinion of the Auditor General should be brought to the attention of the House of Assembly.

Our Mandate

3.1 Strategic Plan

Strategic planning identifies strengths, weaknesses, and opportunities in order for an organization to identify future directions, goals and expected outcomes. Strategic planning is also required to develop an entity's mission, values and lines of business. It ensures effective utilization of an entity's human and financial resources at an operational level to achieve its objectives.

The Office developed its first Strategic Plan in 1994 and continues to revise this plan on a regular basis to reflect changes in our work environment. The process has resulted in the identification of an Office mission statement along with related values and lines of business.

Mission Statement

The Office of the Auditor General serves the House of Assembly by providing independent examinations of Government and its entities.

As legislative auditors, we audit financial statements and other accountability documents, evaluate management practices and control systems, and determine compliance with legislative and other authorities.

Our purpose is to promote accountability and encourage positive change in the stewardship, management and use of public resources.

Values

We believe in independence for our Office, integrity in our conduct and quality in our work. Therefore, we will:

Maintain our independence and avoid the perception of bias;

Strive for excellence in our work and seek continuous improvement in our use of technology, methodology and training;

Treat all external parties with courtesy and respect; and

Conduct ourselves according to the highest professional standards.

We believe everyone should be treated with fairness and respect. Therefore, in our Office, all employees:

Are recognized and valued for contributions;

Communicate openly and work together as a team;

Receive necessary opportunities for professional and personal growth; and

Are accountable for quality performance and encouraged to improve processes.

Lines of Business

Analysis of our mandate, mission and values, review of environmental trends and our vision of the future all support the allocation of resources to the following lines of business:

- Financial Statement Audits
- Legislative Audits
- Monitoring Crown Agency Reports
- Special Assignments
- Reporting

These lines of business and related challenges, strategies and objectives form the major segment of our strategic plan.

In addition to the Office's Strategic Plan, we also developed an Information Technology Strategy. The IT Strategy focused on the use of information technology to improve business processes, specifically in the areas of audit services and the annual report process. The Plan also provides a focus for our information technology requirements such as hardware, software applications, and required training.

3.2 Annual Operational Plan

In order to operationalize our Strategic Plan, in December of each year our Executive and Management Group develop an annual Operational Plan for the period 1 January to 31 December of the following year. This plan includes a listing of all financial statement audits, legislative audit projects and any other audit work planned for the year. For each audit, the plan details the assignment of managers and estimates the time and resources required.

Performance Accountability

Our Office is accountable to the House of Assembly for its performance. This section of the Report provides a comparison of our performance against the goals established for the five lines of business outlined in the Strategic Plan.

4.1 Financial Statement Audits

A financial statement audit enables the Auditor General to express an opinion as to whether the financial statements are presented fairly. The opinion is based on an independent assessment and therefore adds credibility to the information to which it is attached.

Goal 1.1

To complete all financial statement audits within three months of the fiscal year end and by 30 September for the Province's Public Accounts.

Status

Of the 32 Crown agency financial statement audits that we perform, 28 were ready for audit in sufficient time for completion within three months of the fiscal year end. The remaining 4 agencies did not provide their financial statements for audit in sufficient time for completion within three months. These 4 entities were the Newfoundland Government Fund Limited, the Private Training Corporation - Train Out Fund, the Public Accountants' Licensing Board and the Newfoundland and Labrador Education Investment Corporation. The audit of the Public Accounts was completed in September 2002.

Goal 1.2

To assess the time budget for each financial statement audit to determine whether audit procedures can be reduced or eliminated.

Status

Prior to the commencement of each audit, as part of the planning phase, the time budget was reviewed to determine whether there were areas where the audit time could be reduced. At the conclusion of each financial statement audit, the time spent on the audit was reviewed in detail and compared with the original time budget.

Goal 1.3

To complete all financial statement audits within a 10% variance of budget for time.

Status

Except in instances where variances were caused by particular circumstances associated with the agency being audited, all Crown agency financial statement audits performed were completed within a 10% variance of budget for time. The audit of the Public Accounts was also completed within this goal.

Goal 1.4

To have 100% compliance with professional standards and internal Office policy for all audits.

Status

The Office's goal is to comply with Generally Accepted Auditing Standards for all financial statement audits. The Office uses the Canadian Institute of Chartered Accountants' Professional Engagement Manual as our financial statement audit manual. To ensure compliance with these standards, each financial statement audit file is reviewed and challenged in detail by a Manager. In addition, all financial statements are reviewed by our Professional Practice Group and the Office's Executive before they are released. As a result of these processes, all financial statement audits were conducted in accordance with professional standards and internal Office policy.

4.2 Legislative Audits

Legislative audits provide the House of Assembly with an independent professional assessment of public sector accountability, thereby facilitating informed judgements on the manner in which the public sector discharges its responsibilities. Legislative audits include:

- evaluation of accountability relationships, management practices and control systems;
- assessment of compliance with legislation and other authorities; and
- performance audits of program results compared to established criteria.

Goal 2.1

We will apply our risk based management system to select audit projects.

Status

Although there is no substitute for professional judgement in determining what work we perform, we have developed a computerized risk based audit management system known as the Total Audit Universe Management System (TAUMS) to assist us with the selection of legislative audit projects. The system was developed in 1996 and is located on the network server in our Corner Brook Office. This system retains financial and other relevant information from all Crown agencies and departments as well as issues raised in management letters. The information storage and retrieval features of TAUMS permit us to prioritize projects during our planning process and address issues requiring attention.

Goal 2.2

To provide the House of Assembly with an annual accountability document on the Office of the Auditor General.

Status

For the past two decades, information on the work of the Office has been included as a separate Chapter in our *Report to the House of Assembly on Reviews of Departments and Crown Agencies*. This year, and for the first time, a separate report on the work of the Office is being presented to the House of Assembly. The presentation of a separate document is intended to provide more focus on the accountability of our Office.

Goal 2.3

To have 80% of our recommendations implemented within 2 years of our report date.

Status

In 1996, we established a process to measure the extent to which Government implements our recommendations. It is our intention to monitor and update the recommendations in each report two years after it has been issued. Monitoring will continue until we are reasonably satisfied that the issues are being adequately addressed or are no longer valid.

Performance Accountability

For the seven years from 1994 to 2000 this Office made 834 individual recommendations through our various reports which were tabled in the House of Assembly. We are pleased to note that for 761 or 91.2% of these recommendations, satisfactory progress has been made or the recommendations are no longer applicable.

In 2002, Chapter 3 of our *Report to the House of Assembly on Reviews of Departments and Crown Agencies* outlined our update on prior years' report items.

Goal 2.4

To ensure a high level of quality in the legislative audit process by subjecting all reports to quality control criteria and a challenge review process.

Status

All legislative audit work is carefully planned, conducted, monitored, and reviewed in accordance with Canadian Generally Accepted Auditing Standards. The reports from this work are the final published product provided to Members of the House of Assembly. Therefore, it is imperative that the documents be factual, relevant and understandable. To achieve this objective, over the years we have undertaken a number of initiatives. Such initiatives include a rigorous challenge review process at various levels in the Office including the Executive, and providing draft reports to senior Government and Crown agency officials for validation and comment.

Goal 2.5

To complete legislative audit fieldwork by 30 April.

Status

We performed the majority of our legislative audit fieldwork during the period 1 January 2002 to 30 April 2002; however, commencing in early May 2002, resources were reallocated from legislative audits to financial statement audits of Crown agencies and the Province. In September 2002, after our financial statement audits were completed, we finalized our legislative audits through validating the findings with senior officials prior to issuing final reports. Our *Report to the House of Assembly on Reviews of Departments and Crown Agencies for the Year Ended 31 March 2002* was tabled in the House of Assembly in December 2002. We are continuing efforts in this area to achieve the goal of completing all legislative audit field work by 30 April.

4.3 Monitoring Crown Agency Reports

Our role is to assess all Crown agencies over an appropriate number of years and to report on their accountability, management practices and control systems, their compliance with legislation, their performance related to established criteria, and any weaknesses or other issues which we feel should be brought to the attention of the House of Assembly.

Goal 3.1

To monitor Crown agency financial statements and other reports throughout the year using a computerized database to maintain the results.

Status

We have developed and are using a database system known as the Total Audit Universe Management System (TAUMS). This system retains financial and other relevant information from all Crown agencies and departments as well as issues raised in management letters.

Goal 3.2

To report on the monitoring of Crown agency financial statements and other reports to the House of Assembly on an annual basis.

Status

Section 2.5 of our *Report to the House of Assembly on Reviews of Departments and Crown Agencies* contains the results of this monitoring work for the 2002 fiscal year.

4.4 Special Assignments

Under Section 16 of the *Auditor General Act*, the Auditor General may accept assignments from the House of Assembly, the Public Accounts Committee and the Lieutenant-Governor in Council. The results of these assignments are reported to the body making the request.

Goal 4.1

To perform and report on special assignments whenever requested by the House of Assembly, Public Accounts Committee or the Lieutenant-Governor in Council.

Status

While we have completed a number of special assignments in recent years, there were no requests for special assignments during the 2002 fiscal year.

Goal 4.2

To report on all special assignments conducted within six months of beginning our work.

Status

There were no requests for special assignments during the 2002 fiscal year.

Goal 4.3

To subject all special assignment reports to quality control criteria and a challenge review process.

Status

While there have been no requests for special assignments during the 2002 fiscal year, our quality control and challenge review process requires that all audits, reviews, or assignments be subject to quality control criteria and a formal challenge review process.

4.5 Reporting

The *Auditor General Act* requires that we report, at least annually, to the House of Assembly on the results of our examination of the Province's financial statements and on the results of any audits, examinations or inquiries which we have performed. In addition, when we have completed a financial statement audit, we attach our auditor's report to the financial statements and issue a management letter to the entity examined. When we perform a legislative audit, we issue a management report which includes the entity's response to any comments made.

Goal 5.1

To report on legislative audits, the financial statements of the Province, and the monitoring of Crown agencies by the end of December for the preceding fiscal year end.

Status

Our *Report to the House of Assembly on the Audit of the Financial Statements of the Province for the Year Ended 31 March 2002* contains our comments on the audit of the financial statements of the Province and was tabled in November 2002. Our *Report to the House of Assembly on Reviews of Departments and Crown Agencies for the Year Ended 31 March 2002* contains our comments on the result of our legislative audits and was tabled in December 2002.

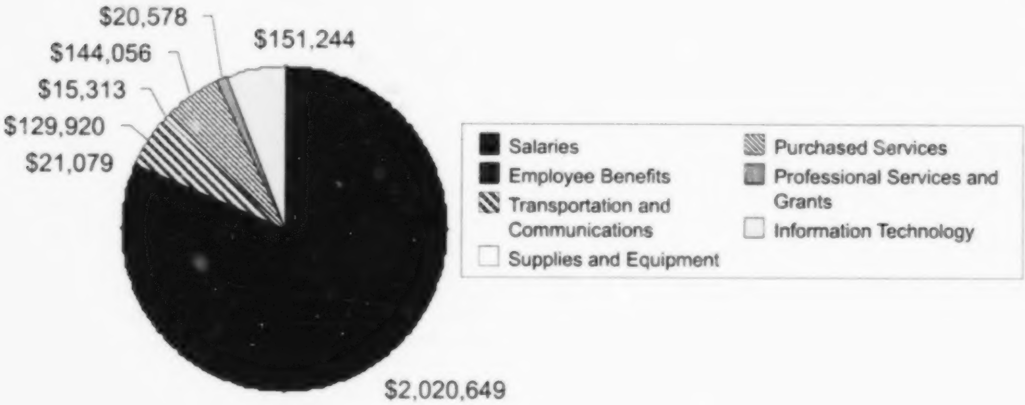
Performance Accountability

Financial Accountability

The gross expenditure of the Office totalled $2.5 million for the year ended 31 March 2002. The Office operated within the budget provided by the Commission of Internal Economy and approved by the Legislature. Information on the total expenditure of the Office for the year ended 31 March 2002 is presented in Figure 2.

Figure 2

Expenditure of the Office
Year Ended 31 March 2002



Approximately 87% of the Office's total expenditure relates to such items as salaries, rent, equipment rental and telephone. As a result, the Office has a very small amount of discretionary spending.

In accordance with Section 33 of the *Auditor General Act*, estimates for the Office of the Auditor General are approved by the Commission of Internal Economy for inclusion in the Estimates of the Province. Section 32 of the *Act* requires that the accounts of the Office be audited annually by an independent public accountant appointed by the Commission.

The following are the financial statements for the Office for the year ended 31 March 2002 which were audited by an auditor appointed by the Commission of Internal Economy and which were tabled in the House of Assembly on 19 November 2002. We note that the external auditor reported no significant matters to the Commission of Internal Economy resulting from the audit of the Office.

NKHK
CHARTERED
ACCOUNTANTS

Suite 201, 516 Topsail Rd., St. John's, Nfld. A1E 9C5
Tel (709) 364•5600 Fax (709) 368 • 2146 E-mail info@nkhk.nf.ca

AUDITORS' REPORT

To The Commission of Internal Economy
House of Assembly
Province of Newfoundland

In accordance with Section 32 of The Auditor General Act, we have audited the schedule of assets and liabilities of the Office of the Auditor General, Province of Newfoundland as at March 31, 2002, the statement of expenditure and related revenue and statement of gross expenditure and unexpended balances for the year then ended. This financial information is the responsibility of the Office's management. Our responsibility is to express an opinion on this financial information based on our audit.

We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial information is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial information. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial information.

In our opinion, this financial information presents fairly, in all material respects, the assets and liabilities of the Office as at March 31, 2002 and the results of its operations for the year then ended, in accordance with the accounting policies disclosed in Note 1 to the financial information.

NKHK Chartered Accountants

St. John's, Newfoundland
May 30, 2002

OFFICE OF THE AUDITOR GENERAL
PROVINCE OF NEWFOUNDLAND

Schedule of Assets and Liabilities
March 31, 2002

	2002	2001
ASSETS		
Current		
Audit fees billed and in progress	$ 90,853	$ 53,398
Travel imprests	1,200	1,500
Accountable advance	200	200
	$ 92,253	$ 55,098

	2002	2001
LIABILITIES		
Current		
Accrued leave	$378,832	$317,695
Vouchers/HST payable	-	5,336
Accrued payroll	27,231	21,355
Accrued severance pay	397,280	394,794
	$803,343	$739,180

Signed on behalf of the Office: Auditor General

OFFICE OF THE AUDITOR GENERAL
PROVINCE OF NEWFOUNDLAND

Statement of Expenditure and Related Revenue
Year Ended March 31, 2002

		Estimates	
	Actual	Amended	Original
EXECUTIVE SUPPORT			
Salaries	$ 122,887	$ 126,600	$ 117,400
Salaries (statutory)	217,532	149,000	99,500
Employee benefits	1,922	2,100	4,800
Transportation and communications	11,587	13,300	17,000
Professional services	14,428	14,500	14,500
Purchased services	1,727	1,900	700
	370,083	307,400	253,900
ADMINISTRATIVE SUPPORT			
Salaries	194,897	195,100	184,500
Employee benefits	1,459	1,900	3,400
Transportation and communications	23,501	24,000	28,200
Supplies	14,829	15,100	15,100
Purchased services	142,329	142,500	151,300
Property, furnishings and equipment	484	3,000	3,000
Grants and subsidies	3,650	3,700	8,500
	381,149	385,300	394,000
AUDIT OPERATIONS			
Salaries	1,485,333	1,486,100	1,478,500
Employee benefits	17,698	23,000	10,000
Transportation and communications	94,832	97,500	79,500
Professional services	2,500	2,500	15,000
Information technology	151,244	159,800	130,800
	1,751,607	1,768,900	1,713,800
Revenue - Provincial	(154,795)	(157,800)	(157,800)
	1,596,812	1,611,100	1,556,000
Net expenditure	$2,348,044	$2,303,800	$2,203,900

OFFICE OF THE AUDITOR GENERAL
PROVINCE OF NEWFOUNDLAND

Statement of Gross Expenditure and Unexpended Balances
Year Ended March 31, 2002

Original estimates (net)	$2,203,900
Add: estimates transferred from other departments	99,900
Amended estimates	2,303,800
Add: revenue estimates net of statutory payments	58,300
Total appropriation	2,362,100
Total net expenditure	2,348,044
Less: statutory payments in excess of revenues	62,737
Total gross expenditure (budgetary, non-statutory)	2,285,307
Unexpended balance of appropriation	$ 76,793

Summary of Cash Payments and Receipts

	Payments	Receipts	Net
Current account	$2,502,839	$154,795	$2,348,044

OFFICE OF THE AUDITOR GENERAL PROVINCE OF NEWFOUNDLAND

Notes to Financial Information
March 31, 2002

Authority

Section 3 of the *Auditor General Act* provides for the establishment of a department of the public service of the Province called the Office of the Auditor General. This Act was assented to on October 31, 1991.

1. Significant accounting policies

This financial information has been prepared by the Office of the Auditor General using an accrual basis of accounting, except revenues as reported in the Statement of Expenditure and Related Revenue which are recorded when invoiced. Outlined below are the significant policies followed:

(a) Assets and liabilities

Assets and liabilities are recorded on a basis consistent with the policies used in preparing the Public Accounts of the Province of Newfoundland. Direct liabilities and convertible assets such as amounts receivable are reported in the Schedule of Assets and Liabilities.

(b) Operating expenses

The employer's portion of government personnel costs is paid by the Department of Finance and is not reflected in this financial information.

(c) Capital assets

Capital asset acquisitions are charged as budgetary expenditures and are expensed in the year they are acquired. The assets are not considered to be convertible and therefore are not capitalized and are not valued on the Schedule of Assets and Liabilities.

(d) Income taxes

The Office of the Auditor General is not subject to Provincial or Federal income taxes.

2. Pensions

Under the *Auditor General Act*, all persons employed in the Office of the Auditor General are employees for the purposes of the *Public Service Pensions Act, 1991*, and are entitled to all the benefits under that Act. No pension expenditure has been recorded in this financial information.

Our People

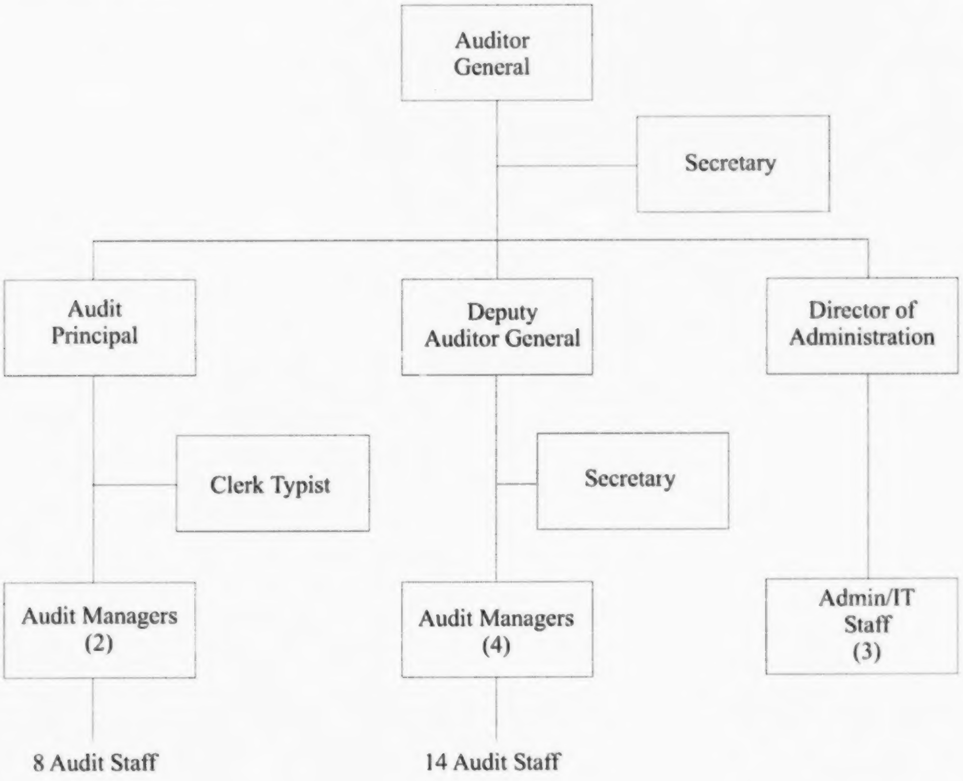
Our employees are our most valuable resource because it is their knowledge and skill that determine the quality of the work that is performed. The Office is organized to allow for the efficient and effective deployment of staff and to support our work.

As of 30 November 2002, our Office had 38 employees, 33 in the St. John's Office and 5 in the Corner Brook Office. Seven employees work in administrative and IT support, while the remaining 31 work directly in audit. Of these 31 audit staff, 22 have professional accounting designations and 6 are in the process of completing their professional accounting program.

The organizational structure of the Office is outlined in Figure 3.

Figure 3

**Office of the Auditor General
Organization Chart**


Auditor General
Secretary
Audit Principal
Deputy Auditor General
Director of Administration
Clerk Typist
Secretary
Audit Managers (2)
Audit Managers (4)
Admin/IT Staff (3)
8 Audit Staff
14 Audit Staff

Our People

Figure 4 is a photograph of our St. John's staff while Figure 5 is a photograph of our Corner Brook staff.

Figure 4

St. John's Staff

Kevin Antle, CGA
Stephen Batten
Chris Brake
Paul Burggraaf, CNA
Marsha Burke, CA
Keith Butt, CA
John Casey, CMA
Rosemarie Crann
Gertrude Critch
Bill Drover, FCA
Gregg Griffin
Michelle Gushue
Eric Hart, CGA, CMA, CIA
Jeremy Hynes
Michelle Jewer, CA
Scott Jones
Brenda Kavanagh
Nancy King
Wayne Loveys, CMA
James Mallard, CGA
Trevor McCormick, CGA
Julia Mullaley, CA
Bill Noftall
John Noseworthy, CA
Lisa Palmer, CA
David Ralph, CA
Tony Roestenberg, CA
Sandra Russell, CA
Tracey Slaney
Jackie Smith
David White, FCGA
Jim Winsor, CMA
Tony Wiseman

Figure 5

Corner Brook Staff

Maxine Barrett Claude Janes, CA Scott Walters, CA

Tony Dingwell, CA Tracy Pelley, CMA

6.1 Supporting our Work

To support our audit staff in the performance of their work, we have established three support services in the Office with the following responsibilities:

> *Administration* - provides strategic and policy advice on human resource management, financial management and report publishing initiatives. At the operational level, this area also provides such services as recruitment, payroll, secretarial support, file registry and purchasing.
>
> *Professional Practice* - provides technical advice on accounting and auditing policy and practice matters. This area reviews current and emerging accounting and auditing issues within the public sector and provides comments to professional bodies and central agencies. This area also performs quality control reviews of all financial statements and certain other reports issued by the Office.

Information Technology - provides consultation and technical support on all matters dealing with information technology. This area is responsible for implementation of the Office's information technology strategic plan, which was updated during the 2002 fiscal year. It also monitors technological developments relevant to the Office, provides ongoing operational support and assists in training activities.

In addition, the Office has established three staff committees - Human Resources, Information Technology, and Occupational Health and Safety. These Committees deal with staff and operational issues and provide recommendations to the Executive. Committee membership is on a rotational basis and all staff are encouraged to participate.

6.2 Human Resource Initiatives

The quality of our work depends on the motivation, talent and energy of our staff. It is essential for our Office to create an environment that encourages, supports and perpetuates a commitment to our mission and values. To achieve this goal, over the years, the Office has developed a number of initiatives, including the following:

Training and Development

The Office has developed a competency model which identified the core competencies that our staff require. This model is used to identify gaps between required and actual skill sets and provides the focus for our ongoing training and development program. This process is essential to ensure that staff keep their skill sets current and relevant. For 2002, on average, each audit staff member was provided with 7.5 days of training and development.

Our Office encourages all audit staff to complete their professional accounting designation. We demonstrate our commitment and support of this initiative through financial assistance, study support and mentoring. Currently we have six staff who are pursuing their professional accounting designations.

In 2002, we provided work-term placements for students from the Memorial University of Newfoundland School of Business Cooperative Program and from the College of the North Atlantic. During 2002, we also partnered with the Employment Equity and Strategic Initiatives Division of Treasury Board Secretariat.

Staff Secondments

Where operational requirements allow, the Office supports the professional development of staff through secondments to other positions within Government or the private sector. At the present time, we have four staff on leave of absence from their permanent positions. We have recruited audit staff to replace these employees during their periods of leave.

Compressed Leave

During the 2000 fiscal year, the Office piloted a compressed work schedule for the summer months and this has been continued during the summer months each year since that time.

Flex Time

The Office has a flex time policy which is offered year round and permits employees to vary the beginning and ending times of work within a core range of hours.

Casual Dress

The Office has a policy whereby staff can dress business casual during the summer months while working in the Office.

6.3 Involvement with the Profession

All legislative audit offices in Canada are members of the Canadian Council of Legislative Auditors (CCOLA) which serves to promote professional legislative auditing in Canada. The (CCOLA) Planning and Coordinating Committee is the senior committee of the CCOLA. Its objectives are to facilitate the activities of the CCOLA and to monitor the achievement of the CCOLA's objectives. Mr. John Noseworthy is Chair of the Planning and Coordinating Committee for 2002-03. The Office, through its membership in the CCOLA, has staff participating on other various CCOLA committees established to address specific issues of common concern.

The Office provides comments on various accounting and auditing issues being researched by the Canadian Institute of Chartered Accountants. In addition, we are pleased to note that many of our staff are actively involved in support of the various professional accounting bodies in which they hold membership.

Other Matters

During the year, in addition to the previously reported accomplishments, the Office was also involved in the following matters:

Issuance of Health Scope, the Province's Report on Comparable Health and Health System Indicators

On 30 September 2002, the Minister of Health and Community Services released the report *"Health Scope: Reporting to Newfoundlanders and Labradorians on Comparable Health and Health System Indicators"*. This was the first time that all jurisdictions in Canada had reported at the same time on a set of comparable health indicators. Our Office performed a review of the Report and issued our comments on the results of applying specified auditing procedures to the information contained in the Report.

This was the first time that this Office and most of the other Canadian Legislative Audit Offices had performed reviews of and issued comments on performance indicators. While my Report acknowledged that this was an important accountability initiative for the Province, I indicated that improvements are required in the completeness and reliability of data reported.

As the various jurisdictions continue to develop and report on various performance indicators in all sectors, the work of our Office and other legislative auditors will greatly increase in the area of reviewing or auditing performance reports and providing comments resulting from our review.

Public Accounts Committee Hearings

The House of Assembly's Public Accounts Committee is appointed under the Standing Orders of the House of Assembly. The Committee is comprised of four Government Members and three Opposition Members. The Chairman of the Committee is elected from the Opposition Members and the Vice-Chairman is elected from the Government Members.

In November 2002, the Public Accounts Committee held hearings over a three day period on Monitoring of School Boards, Royal Newfoundland Constabulary - Firearms Review and Vessel Replacement Plans. These reports were included in the Office's 2001 *Report on Reviews of Departments and Crown Agencies*.

Other Matters

Hosted Canadian Council of Legislative Auditors (CCOLA)

All legislative audit offices in Canada are members of the Canadian Council of Legislative Auditors (CCOLA) which serves to promote professional legislative auditing in Canada. From 25 August to 27 August 2002, our Office, along with the House of Assembly, co-hosted the annual conferences of the Canadian Council of Legislative Auditors and the Canadian Council of Public Accounts Committees in St. John's. The Canadian Council of Public Accounts Committees is comprised of representatives from the Public Accounts Committees of all jurisdictions in Canada and the Canadian Council of Legislative Auditors is comprised of the Auditors General from all jurisdictions in Canada and senior members of their staff.

Appendix I

Auditor General Act

1. This Act may be cited as the *Auditor General Act*.

2. (1) In this Act

(a) "agency of the Crown" means an authority, board, commission, foundation, agency, corporation, association, institute or other body of persons, whether incorporated or unincorporated, 50% or more of the members of which or 50% or more of the members of the board of management or board of directors of which,

(i) are appointed by an Act of the Legislature or by the Lieutenant-Governor in Council, or

(ii) where not so appointed, in the discharge of their duties are public officers or servants of the Crown or are responsible to the Crown for the proper discharge of their duties;

(b) "audit" means an audit or examination of accounts of public money that may be made by the auditor general under this Act;

(c) "auditor general" means the Auditor General of Newfoundland and Labrador appointed under section 4;

(d) "commission" means the Commission of Internal Economy of the House of Assembly appointed under the authority of *The Internal Economy Commission Act*;

(e) "Crown controlled corporation" means a corporation that is not an agency of the Crown and having

(i) 50% or more of its issued and outstanding shares vested in the Crown or in the name of a minister of the Crown, or

(ii) the appointment of a majority of its board of directors made or approved by the Lieutenant-Governor in Council;

(f) "office" means the Office of the Auditor General established under section 3; and

(g) "public money" means all money received, held or collected for or on behalf of the province by a minister of the Crown or other public officer in his or her official capacity or by a person authorized to receive, hold or collect that money, and includes

(i) all revenues of the province,

(ii) money borrowed by the province or received through the issue and sale of securities, and

(iii) money paid to the province for a special purpose.

(2) Words and expressions used in this Act and not defined in subsection (1) have the same meaning as in the *Financial Administration Act*.

3. There is established a department of the public service of the province called the Office of the Auditor General, over which the auditor general shall preside.

4. (1) The Lieutenant-Governor in Council shall, by commission under the Great Seal of the province, appoint a qualified auditor to be the officer called the Auditor General of Newfoundland and Labrador.

(2) The person appointed to the position of auditor general under this section must be confirmed in office as auditor general by the introduction in the House of Assembly of a resolution within 10 days after his or her appointment and if the House of Assembly is not sitting within 10 days after the commencement of the next ensuing Session of the House of Assembly or within 10 days after the House of Assembly resumes sitting following an adjournment of the House of Assembly.

(3) The auditor general is by virtue of his or her position an officer of the House of Assembly.

5. (1) The auditor general holds office for a term of 10 years but may be removed for cause by the Lieutenant-Governor in Council following the passing by the House of Assembly of a resolution requesting the Lieutenant-Governor in Council to do so.

(2) Once having served as auditor general, a person is not eligible for reappointment to that office.

6. In the event of the absence or incapacity of the auditor general or where the Office of Auditor General is vacant, the Lieutenant-Governor in Council may appoint a person temporarily to perform the duties of the auditor general.

7. The auditor general shall be paid a salary out of the Consolidated Revenue Fund at a rate set by the Lieutenant-Governor in Council and is entitled to the privileges of office of a deputy minister.

8. The auditor general shall not hold an office of profit or shall not act as trustee for profit for another person, other than his or her office as auditor general or engage in an occupation for reward outside the duties of his or her office.

9. (1) Before entering upon his or her duties, the auditor general shall

(a) take or make and sign the Oath or Affirmation of Allegiance under the *Oaths of Office Act*; and

(b) take or make and sign the following oath or affirmation of office:

"I, ..., do solemnly swear (or solemnly, sincerely and truly declare and affirm) that I will faithfully, truly, impartially, honestly, justly and to the best of my judgment, skill and ability, execute and perform the powers, duties and functions reposed in or required of me as auditor general under the *Auditor General Act* or another Act and that I will observe and comply with the laws of Canada and Newfoundland and Labrador." (Where an oath is taken add "So help me God").

(2) The oaths or affirmations referred to in subsection (1) shall be administered by the Speaker or by the Clerk of the House of Assembly.

10. The auditor general is the auditor of the financial statements and accounts of the province and shall make those examinations and inquiries that the auditor general considers necessary to enable him or her to report as required by this Act.

11. The auditor general shall examine the several financial statements required by the *Financial Administration Act* to be included in the public accounts of the province, and any other statement that is required to be audited by the auditor general under that Act or another statement that the Minister of Finance may present for audit and shall express his or her opinion as to whether the financial statements present fairly the financial position, results of operations and changes in the financial position of the province in accordance with the disclosed accounting policies of the provincial government and on a basis consistent with that of the preceding year, together with reservations the auditor general may have.

12. (1) The auditor general shall as he or she considers necessary but at least annually report to the House of Assembly on

(a) the work of the office;

(b) whether, in carrying out the work of the office, the auditor general received all the information including reports and explanations the auditor general required;

(c) the results of the auditor general's examination of the financial statements referred to in section 11; and

(d) audits, examinations and inquiries performed under this Act.

(2) A report of the auditor general under subsection (1) shall include the results of the auditor general's examination of the accounts of the province, and shall call attention to anything the auditor general considers significant, including instances where

(a) collections of public money

  (i) have not been effected as required under various Acts and regulations, directives or orders under those Acts,

  (ii) have not been fully accounted for, or

  (iii) have not been properly reflected in the accounts;

(b) disbursements of public money

  (i) have not been made in accordance with the authority of a supply vote, or relevant Act,

  (ii) have not complied with regulations, directives or orders applicable to those disbursements,

(iii) have not been properly reflected in the accounts, or

(iv) have not been made for the purposes for which it was appropriated;

(c) accounts have not been faithfully and properly kept;

(d) assets acquired, administered or otherwise held are not adequately safeguarded or accounted for;

(e) accounting systems and management control systems that relate to revenue, disbursements, the safeguarding or use of assets or the determination of liabilities were not in existence, were inadequate or had not been complied with; or

(f) factors or circumstances relating to an expenditure of public money which in the opinion of the auditor general should be brought to the attention of the House of Assembly.

(3) Paragraph (2)(f) shall not be construed as entitling the auditor general to question the merits of policy objectives of the government.

13. (1) Each report of the auditor general referred to in section 12 shall be submitted to the Speaker of the House of Assembly and the Speaker shall table each report before the House of Assembly immediately after receipt of the report by him or her or, where the House of Assembly is not then in Session, on the 1st day of the commencement of the next ensuing Session of the House of Assembly or on the 1st day after the House of Assembly resumes sitting following an adjournment of the House of Assembly.

(2) The annual report of the auditor general shall be submitted on or before January 31 following the close of the fiscal year to which the report relates.

14. (1) Where an auditor has not been appointed to audit an agency of the Crown or a Crown controlled corporation, the auditor general shall be the auditor.

(2) Where the auditor of an agency of the Crown or of a Crown controlled corporation is other than the auditor general, the auditor shall

(a) deliver to the auditor general after completion of the audit a copy of the auditor's report, his or her recommendations to management and a copy of the audited financial statements of the corporation or agency;

(b) make available immediately to the auditor general, when so requested by the auditor general, all working papers, reports, schedules and other documents in respect of the audit; and

(c) provide immediately to the auditor general, when so requested by the auditor general, a full explanation of work performed, tests and examinations made and the results obtained, and other information relating to the audit within the knowledge of that auditor in respect of the agency or corporation.

(3) Where the auditor general is of the opinion that the information, explanation or document that is provided, made available or delivered to the auditor general by the auditor referred to in subsection (2) is insufficient to permit the auditor general to exercise his or her powers or duties under this Act, the auditor general may conduct or cause to be conducted an additional examination and investigation of the records and operations of the agency of the Crown or the Crown controlled corporation that the auditor general considers necessary.

15. (1) Where during the course of an audit, the auditor general becomes aware of an improper retention or misappropriation of public money or another activity that may constitute an offence under the *Criminal Code* or another Act, the auditor general shall immediately report the improper retention or misappropriation of public money or other activity to the Lieutenant-Governor in Council.

(2) In addition to reporting to the Lieutenant-Governor in Council under subsection (1), the auditor general shall attach to his or her annual report to the House of Assembly a list containing a general description of the incidents referred to in subsection (1) and the dates on which those incidents were reported to the Lieutenant-Governor in Council.

16. (1) The auditor general may, where in his or her opinion such an assignment does not interfere with the auditor general's primary responsibilities under this Act, whenever the Lieutenant-Governor in Council so requests or the House of Assembly or the Public Accounts Committee by resolution so requires, inquire into and report on a matter relating to the financial affairs of the province or to public property or inquire into and report on a person or organization that has received financial aid from the government of the province or in respect of which financial aid from the government of the province is sought.

(2) Where the auditor general makes a report in accordance with subsection (1), the auditor general shall report back to either the Lieutenant-Governor in Council, the House of Assembly or the Public Accounts Committee.

17. Except as provided by another Act that expressly refers to this section, every department of government, every agency of the Crown and every Crown controlled corporation shall furnish the auditor general with information regarding its power, duties, activities, organization, financial transactions and methods of business as the auditor general requires, and the auditor general shall be given access to all books, accounts, financial records, reports, electronic data processing records, explanations, files and all other papers, things or property belonging to or in use by the department, agency of the Crown or Crown controlled corporation and necessary to the performance of the duties of the auditor general under this Act.

18. (1) The auditor general may examine a person on oath or affirmation on a matter pertinent to an account submitted to the auditor general for audit and the oath or affirmation may be administered by the auditor general to a person whom the auditor general desires to examine.

(2) In order to compel the attendance of a person under subsection(1), the auditor general may apply to a judge of the Trial Division for an order that a subpoena be issued from the court commanding the person named in the subpoena to appear before the auditor general at the time and place mentioned in the subpoena, and then and there to testify to all matters within that person's knowledge relative to an account submitted to the auditor general.

(3) Where so required, the person named in the subpoena shall produce a document, paper or thing which he or she has possession of relative to the account.

(4) A person named in a subpoena issued under this section is entitled to reasonable expenses at the time of the service.

19. Notwithstanding sections 17 and 18, the auditor general shall not be permitted access to reports arising out of the conduct of lawful police investigations or to information in the records listed in paragraphs 9(1)(b) to (f) of the *Freedom of Information Act* except for the information in the records disclosed under subsection 9(2) of that Act.

20. The auditor general may station in the offices of a department, agency of the Crown or Crown controlled corporation, an employee of the office for the purpose of enabling the auditor general to more effectively exercise or perform his or her powers and duties under this or another Act, and the department, agency of the Crown or Crown controlled corporation shall provide the necessary office accommodation and facilities for employees so stationed.

21. The auditor general and each person employed in the office or appointed or engaged to assist the auditor general for a limited period of time or in respect of a particular matter under section 28 shall keep confidential all matters that come to his or her knowledge in the course of his or her employment or duties under this Act and shall not communicate those matters to another person, except as may be required in connection with the discharge of his or her responsibilities under this Act or under the *Criminal Code.*

22. Audit working papers of the office shall not be laid before the House of Assembly or a committee of the House of Assembly.

23. (1) Those auditors and employees that are necessary to enable the auditor general to perform his or her duties under this or another Act shall be appointed or employed in the manner authorized by law and are members of the public service of the province.

(2) The personnel management policies of the Treasury Board as they relate to the public service of the province apply to the office.

(3) The *Conflict of Interest Act* applies to the auditor general and every person employed in the office.

24. (1) Every person employed in the office, shall, before performing a duty as an employee in the office

(a) take or make and sign the Oath or Affirmation of Allegiance under the *Oaths of Office Act;* and

(b) take or make and sign the following oath or affirmation of office:

"I ...., do swear (or solemnly, sincerely and truly, declare and affirm) that I will faithfully, honestly and impartially to the best of my knowledge, skill and ability perform my duties as an employee in the Office of the Auditor General and that I will observe and comply with the laws of Canada and Newfoundland and Labrador and except as I may be legally required, I will not disclose or give to a person information or a document that comes to my knowledge or possession by reason of my being an employee in the Office of the Auditor General." (In the case where an oath is taken add "So help me God").

(2) The oaths or affirmations referred to in subsection (1) shall be administered by the auditor general or his or her designate.

(3) The auditor general may require a person or class of persons appointed to assist the auditor general for a temporary period of time or in respect of a particular matter under section 28 to take or make and subscribe the oaths or affirmations referred to in subsection (1).

(4) A copy of each oath or affirmation administered to an employee of the office under subsection (1) shall be kept in the files of the office.

(5) The refusal of an employee of the office to take or make and subscribe to the oaths or affirmations or the failure to adhere to the oaths or affirmations required by subsection (1) may be considered as cause for dismissal.

25. (1) All persons employed in the office are employees for the purposes of the *Public Service Pensions Act, 1991* and are entitled to all the benefits under that Act.

(2) Notwithstanding subsection (1), the LieutenantGovernor in Council may by order permit the auditor general to participate in the *Public Service Pensions Act, 1991* or may by order stipulate other pension arrangements for the auditor general upon his or her appointment under this Act.

26. The auditor general may delegate in writing to an employee of the office authority to exercise a power or perform a duty of the auditor general other than reporting to the House of Assembly.

27. The auditor general may appoint an employee of the office as acting auditor general while the auditor general is absent from the province.

28. The auditor general may engage, on a fee basis, a person to act as his or her agent for the purpose of conducting an audit or examination that the auditor general is empowered to conduct or to perform a service that the auditor general considers necessary for a purpose related to the exercise or performance of the auditor general's powers and duties under this or another Act.

29. The auditor general, persons employed in the office and those persons employed or engaged by the auditor general under the authority of section 28 are not liable in a proceeding for an act done or not done or for a statement or report made by them in good faith in connection with a matter they are authorized or required to do under this Act.

30. Subject to the *Public Tender Act*, the auditor general may engage within the limits of the appropriation approved by the Legislature for his or her office and without the approval of the Treasury Board the professional services, including counsel, consultants, accountants and other experts and acquire goods that the auditor general considers necessary for a purpose related to the exercise or performance of his or her powers and duties under this or another Act.

31. Where the auditor general

(a) considers it necessary to report for the information of the Lieutenant-Governor in Council; or

(b) is required to report to the Lieutenant-Governor in Council for the purposes of this Act, especially in respect of a matter relating to the office,

the report is made through the Minister of Finance.

32. (1) The Commission shall appoint a qualified auditor to audit annually the office.

(2) The auditor appointed under subsection (1), has the same powers and shall perform the same duties in relation to an audit of the office that the auditor general has or performs in relation to an audit performed under this Act.

(3) The auditor appointed under subsection (1) shall submit his or her report to the commission and send a copy to the auditor general.

(4) The Speaker of the House of Assembly shall table the report of the auditor under this section before the House of Assembly immediately after receiving the report by him or her or where the House of Assembly is not then in Session, on the 1st day of the commencement of the next ensuing Session of the House of Assembly or the 1st day after the House of Assembly resumes sitting following an adjournment of the House of Assembly.

33. (1) The auditor general shall submit annually to the commission for its approval estimates of the sums that will be required to be provided by the Legislature for the payment of the salaries, allowances and expenses of the office under this Act during the next ensuing fiscal year.

(2) The commission shall review and may alter as it considers proper the estimates submitted under subsection (1) and, upon completion of the review, the Speaker of the House of Assembly shall submit the estimates as approved by the commission to the House of Assembly for the purpose of inclusion in the estimates of the province for approval by the Legislature.

34. (1) Where the auditor general conducts examinations or audits an agency of the Crown or Crown controlled corporation, the auditor general may charge fees for professional services rendered by his or her office.

(2) The fees referred to in subsection (1) shall be established on a basis that may be approved by the Lieutenant-Governor in Council.

(3) The fees charged and collected by the auditor general under this section shall be paid into the Consolidated Revenue Fund.

35. (1) Persons in the employ of the Department of the Auditor General at the commencement of this Act are considered to have been appointed in accordance with this Act.

(2) Upon the commencement of this Act, the Department of the Auditor General is considered to be and is continued in the name of the Office of the Auditor General under this Act.

(3) A reference in another Act to the auditor general appointed under the *Financial Administration Act* or a reference in another Act to the auditor general shall be considered to be a reference to the auditor general appointed under this Act.

36. (1) Paragraph 2(a) of the *Financial Administration Act* is repealed and the following substituted:

"(a) "auditor general" means the Auditor General of Newfoundland and Labrador appointed under the *Auditor General Act* and includes all employees acting under the auditor general's direction;".

(2) Sections 58 to 71 of the Act are repealed.

(3) Subsection 83(1) of the Act is amended by striking out the words "and the Auditor General" and the words "or the Auditor General".

Appendix I

Appendix II

Departmental Audits Performed by the Office of the Auditor General

General Government Sector

- Consolidated Fund Services
- Executive Council
- Finance
- Government Services and Lands
- Labrador and Aboriginal Affairs
- Legislature
- Public Service Commission
- Works, Services and Transportation

Resource Sector

- Environment
- Fisheries and Aquaculture
- Forest Resources and Agrifoods
- Industry, Trade and Rural Development
- Mines and Energy
- Tourism, Culture and Recreation

Social Sector

- Education
- Health and Community Services
- Human Resources and Employment
- Justice
- Labour
- Municipal and Provincial Affairs
- Newfoundland and Labrador Housing Corporation
- Youth Services and Post-Secondary Education

Appendix II

Agencies of the Crown and Other Entities Whose Financial Statement Audits are Performed by the Office of the Auditor General

Entity	Year End	Auditors Report
Department of Industry, Trade and Rural Development		
Enterprise Newfoundland and Labrador Corporation	31 March 2002	21 June 2002
Farm Development Loan Board	31 March 2002	11 June 2002
Fisheries Loan Board of Newfoundland and Labrador	31 March 2002	25 June 2002
Department of Education		
Newfoundland and Labrador Education Investment Corporation	31 March 2002	26 June 2002
Provincial Information and Library Resources Board	31 March 2002	11 June 2002
Executive Council		
Labrador Transportation Initiative Fund	31 March 2002	17 June 2002
Provincial Advisory Council on the Status of Women - Newfoundland and Labrador	31 March 2002	11 June 2002
Department of Finance		
Hotel Buildings Limited	31 March 2002	31 May 2002
Newfoundland Government Fund Limited	31 December 2001	10 April 2002
Newfoundland and Labrador Government Sinking Fund	31 March 2002	31 May 2002
Newfoundland and Labrador Industrial Development Corporation	31 March 2002	31 May 2002
Newfoundland and Labrador Municipal Financing Corporation	31 March 2002	14 June 2002
Newvest Realty Corporation	31 December 2001	15 April 2002
Province of Newfoundland and Labrador Pooled Pension Fund	31 December 2001	8 March 2002
Department of Forest Resources and Agrifoods		
Livestock Owners Compensation Board	31 March 2002	20 June 2002
Newfoundland and Labrador Crop Insurance Agency	31 March 2002	20 June 2002
Department of Government Services and Lands		
Consumer Protection Fund for Prepaid Funeral Services	31 March 2002	21 June 2002
Public Accountants' Licensing Board	31 December 2001	21 May 2002

Appendix III

Agencies of the Crown and Other Entities Whose Financial Statement Audits are Performed by the Office of the Auditor General

Entity	Year End	Auditors Report
Department of Mines and Energy		
Bull Arm Site Corporation	31 March 2002	19 June 2002
Department of Justice		
Director of Support Enforcement	31 March 2002	6 June 2002
Newfoundland and Labrador Legal Aid Commission	31 March 2002	19 June 2002
Office of the High Sheriff	31 March 2002	23 May 2002
Registrar of the Supreme Court of Newfoundland and Labrador	31 March 2002	14 June 2002
Department of Municipal and Provincial Affairs		
Newfoundland and Labrador Housing Corporation	31 March 2002	24 June 2002
Department of Tourism, Culture and Recreation		
Heritage Foundation of Newfoundland and Labrador	31 March 2002	31 May 2002
John Cabot (1997) 500th Anniversary Corporation	31 March 2002	31 May 2002
Newfoundland and Labrador Arts Council	31 March 2002	17 June 2002
Newfoundland and Labrador Heritage Corporation	31 March 2002	18 June 2002
Special Celebrations Corporation of Newfoundland and Labrador Inc.	31 March 2002	12 June 2002
Department of Works, Services and Transportation		
C.A. Pippy Park Commission	31 March 2002	10 June 2002
Department of Youth Services and Post-Secondary Education		
Newfoundland and Labrador Student Investment and Opportunity Corporation	31 March 2002	27 June 2002
Private Training Corporation	31 December 2001	17 April 2002

Appendix IV

Agencies of the Crown and Other Entities Whose Financial Statement Audits are Performed by Private Sector Auditors

Entity	Year End	Auditors Report
Department of Education		
Literacy Development Council of Newfoundland and Labrador	31 March 2002	12 July 2002
School Boards		
Conseil Scolaire Francophone Provincial de Terre - Neuve et du Labrador	30 June 2001	22 August 2001
District #1 - Labrador	30 June 2001	27 July 2001
District #2 - Northern Peninsula/Labrador South	30 June 2001	6 September 2001
District #3 - Corner Brook/Deer Lake/St. Barbe	30 June 2001	10 October 2001
District #4 - Cormack Trail	30 June 2001	3 August 2001
District #5 - Baie Verte/Central/Connaigre	30 June 2001	4 October 2001
District #6 - Lewisporte/Gander	30 June 2001	30 August 2001
District #7 - Burin	30 June 2001	12 October 2001
District #8 - Vista	30 June 2001	19 December 2001
District #9 - Avalon West	30 June 2001	24 August 2001
District #10 - Avalon East	30 June 2001	12 October 2001
Department of Environment		
Multi-Materials Stewardship Board	31 March 2002	28 June 2002
Multi-Material Stewardship Board Waste Management Trust Fund	31 March 2002	28 June 2002
Workplace Health, Safety and Compensation Commission	31 December 2001	22 February 2002
Department of Finance		
Newfoundland and Labrador Liquor Corporation	31 March 2002	19 August 2002
Department of Fisheries and Aquaculture		
Newco IV Corporation	31 December 2001	12 April 2002

Appendix IV

Agencies of the Crown and Other Entities Whose Financial Statement Audits are Performed by Private Sector Auditors

Entity	Year End	Auditors Report
Department of Forest Resources and Agrifoods		
Newfoundland and Labrador Farm Products Corporation	31 March 2002	31 May 2002
Department of Government Services and Lands		
Board of Commissioners of Public Utilities	31 March 2002	16 May 2002
Credit Union Deposit Guarantee Corporation	31 December 2001	8 March 2002
Office of the Commissioner of Petroleum Products Pricing	31 March 2002	10 June 2002
Department of Health and Community Services		
Newfoundland and Labrador Centre for Health Information	31 March 2002	21 June 2002
Newfoundland and Labrador Cancer Treatment and Research Foundation	31 March 2002	21 June 2002
Provincial Perinatal Program	31 March 2002	21 June 2002
Public Health Laboratory	31 March 2002	21 June 2002
Community Health Boards		
Central Regional Health and Community Services Board	31 March 2002	5 July 2002
Eastern Regional Health and Community Services Board	31 March 2002	7 June 2002
St. John's Regional Health and Community Services Board	31 March 2002	6 June 2002
Western Regional Health and Community Services Board	31 March 2002	13 June 2002
Regional Hospital Boards		
Avalon Health Care Institutions Board	31 March 2002	19 July 2002
Central East Health Care Institutions Board	31 March 2002	24 June 2002
Central West Health Corporation	31 March 2002	28 June 2002
Grenfell Regional Health Services Board	31 March 2002	30 May 2002
Health Care Corporation of St. John's	31 March 2002	21 June 2002
Health Labrador Corporation	31 March 2002	24 July 2002
Peninsulas Health Care Corporation	31 March 2002	10 July 2002
Western Health Care Corporation	31 March 2002	17 June 2002
Nursing Homes		
St. John's Nursing Home Board	31 March 2002	19 August 2002

Appendix IV

Agencies of the Crown and Other Entities Whose Financial Statement Audits are Performed by Private Sector Auditors

Entity	Year End	Auditors Report
Department of Industry, Trade and Rural Development		
Newfoundland Hardwoods Limited	31 March 2002	22 July 2002
Newfoundland Ocean Enterprises Limited	31 March 2002	7 May 2002
Operation ONLINE Inc.	31 March 2002	10 May 2002
Department of Mines and Energy		
Churchill Falls (Labrador) Corporation Limited	31 December 2001	29 January 2002
Gull Island Power Company Limited	31 December 2001	28 January 2002
Lower Churchill Development Corporation Limited	31 December 2001	28 January 2002
Newfoundland and Labrador Hydro Electric Corporation	31 December 2001	8 February 2002
Twin Falls Power Corporation Limited	31 December 2001	28 January 2002
Department of Municipal and Provincial Affairs		
Municipal Assessment Agency Inc.	31 March 2002	13 June 2002
Department of Tourism, Culture and Recreation		
Marble Mountain Development Corporation	30 April 2002	11 June 2002
Marble Mountain Management Corporation	30 April 2002	11 June 2002
Newfoundland and Labrador Film Development Corporation	31 March 2002	3 June 2002
Department of Youth Services and Post-Secondary Education		
Memorial University of Newfoundland	31 March 2002	5 July 2002
Memorial University of Newfoundland Pension Plan	31 March 2002	5 July 2002
The College of the North Atlantic	31 March 2002	6 August 2002

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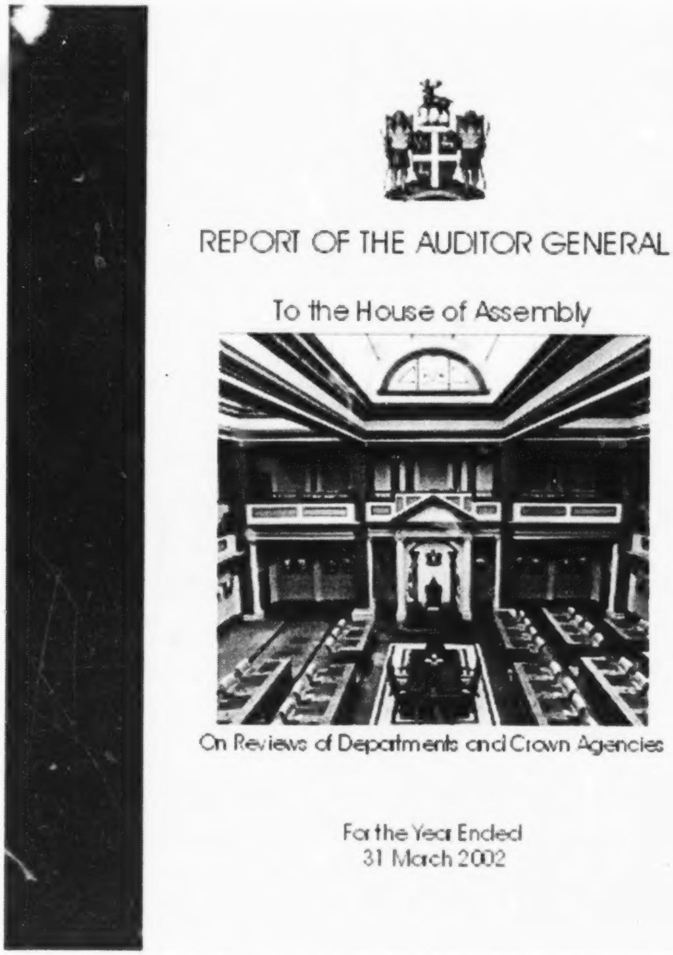

REPORT OF THE AUDITOR GENERAL

To the House of Assembly

On Reviews of Departments and Crown Agencies

For the Year Ended
31 March 2002

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Reflections of the Auditor General

The following comments are made further to my reviews of various Departments and Crown agencies for the year ended 31 March 2002. The report covers a variety of matters and is provided to the Members of the House of Assembly for their consideration. The purpose of the Office of the Auditor General as outlined in the Mission Statement is *"... to promote accountability and encourage positive change in the stewardship, management and use of public resources."* Corrective action on the issues identified in this report will further that goal.

Accountability *(Part 2.1)*

In our democratic system of government, the Legislature provides government with the responsibility to govern and manage public resources. In turn, government is accountable to the House of Assembly for its performance. As a result of this relationship, the House of Assembly has an essential role in assessing government's performance.

In order for the Members of the House of Assembly to discharge their responsibility in assessing government's performance, government has to provide them with information that can be used for that purpose. The information should show how much funding was provided by the Legislature, what was planned to be accomplished with this funding, how much of the funding was actually spent and what was actually accomplished. This information should be provided for each government department and Crown agency and tabled in the House of Assembly.

However, again this year, Government has not provided the Members of the House of Assembly with information that could be used to assess its performance. Government does not have any legislative requirement for any of its departments or Crown agencies to provide annual performance plans or performance reports for tabling in the House of Assembly.

To put the matter in perspective, there were no performance plans tabled in the House of Assembly during the year and, of the 20 Government departments, the House of Assembly and the 83 Crown agencies receiving approximately $4 billion, only 1 Department and 9 Crown agencies receiving a total of approximately $6.4 million, had an annual report for 2001 tabled. In my opinion, this represents a significant lack of information which is required by the Members of the House of Assembly in order to assess Government's actual performance relative to a performance plan.

I believe Government should have a legislative framework which requires the tabling of annual performance plans and performance reports in the House of Assembly for all Government departments and Crown agencies.

Reflections of the Auditor General

Legislation

In our democratic system of Government, legislation is debated and approved in the House of Assembly. Every citizen, company, and organization in the Province is in someway affected by legislation - whether it is motor vehicle registration, the provision of health and education services or the taxes paid on goods and services acquired. Government too, has to comply with legislation that has been enacted. In particular, there are two pieces of legislation which set rules relating to the financial operations of Government - the *Financial Administration Act* and the *Public Tender Act*. As in other years, my Office continues to identify instances where Government and its agencies have contravened these Acts. Instances identified this year are as follows:

1. The Financial Administration Act

The *Financial Administration Act* is the primary Act governing the financial operations of the Province. The *Act* outlines the legislative requirements for the collection and disbursement of public funds, the raising of certain loans authorized by the Legislature, and the preparation and audit of the financial statements of the Province. Concepts provided for in the *Financial Administration Act* and central to our democratic system are that Government cannot spend beyond the limits approved by the Legislature, money can only be spent for purposes authorized by the Legislature and Government cannot raise money without the approval of the Legislature.

There were a number of examples during the year where Government contravened the *Financial Administration Act*. For example:

Special Warrants - *(Part 2.2)*

Through the use of special warrants, Government can, without prior debate and approval of the House of Assembly, spend public money. The *Financial Administration Act* provides for the issuance of special warrants in instances where the **necessity is urgent**. However, in March of 2002 Government issued four special warrants totalling $33.1 million for which, in my opinion, there was no urgent requirement. As a result, these special warrants were issued in contravention of the *Financial Administration Act*. The issuance of special warrants in instances where, in my opinion, there was no urgent requirement, has been reported by my Office every year since 1997. Since 1997, Government has issued special warrants totalling $483.6 million of which, in my opinion, special warrants for $299.7 million were in contravention of the *Financial Administration Act*.

There is another issue regarding these special warrants totalling $33.1 million and that relates to the fact that funding could have been requested through the House of Assembly in either the Interim Supply portion of the 2002-03 budget or through a Supplementary Supply Bill as the House of Assembly was in session when three of the special warrants totalling $32.4 million were issued. The fourth warrant for $720,000 was issued one day after the House of Assembly was in session and four days before it was in session again.

Borrowing Without Authority - ***(Part 2.3)***

The *Financial Administration Act* states that *"No money shall be raised by way of loan by the province except under this or some other Act of the Legislature."* This report item explains that for 17 Government entities created under the *Corporations Act,* there is no provision or authority in legislation to borrow money. Four of these entities had a total of $43.8 million in outstanding debt due to entities outside of the government reporting entity. As a result, these entities contravened the *Financial Administration Act* by borrowing money without legislative authority.

Special Assistance Fund - ***(Part 2.23)***

The *Financial Administration Act* states that *"No issue of public money shall be made out of the Consolidated Revenue Fund except under authority of the Legislature".* The Special Assistance Fund administered by the Department of Municipal and Provincial Affairs is authorized by the Legislature to provide special assistance to municipalities. This report item indicates that the Department is providing funding to groups other than municipalities. The percentage of total funding allocated to these non-municipality groups has increased from 21% in 1999 to 56% in 2002. In 2002, less than one-half of the $5.3 million provided under this Fund was paid to municipalities. As the funds provided for in this account were not used for the purposes authorized by the Legislature, the Department contravened the *Financial Administration Act.*

I am concerned that Government continues to contravene the *Financial Administration Act.* Government should comply with this legislation.

2. The Public Tender Act

The *Public Tender Act* outlines the rules that Government departments and most Crown agencies have to comply with in the acquisition of goods and services. The *Act* is intended to provide a level playing field for individuals and companies wanting to do business with Government.

As in other years, my Office continues to identify instances where Government and its agencies contravened the *Public Tender Act.* For example:

Straits of Belle Isle Marine Services - ***(Part 2.25)***

The Province did not comply with the *Public Tender Act* in awarding a $17.8 million contract for the Strait of Belle Isle ferry service. In this instance, the contract was awarded to a bidder who did not comply with the tender specifications.

Multi-Materials Stewardship Board - *(Part 2.9)*

In delivering the Beverage Container Control Program, the Board contravened the *Public Tender Act* by entering into several contracts without calling a public tender. For example, contracts for depot operations were extended from 1 April 1999 to 31 March 2005 without any request for public tender. Contracts for depot operations have an annual value of approximately $3.6 million. In addition, the processing contract was extended on three occasions, covering the years ending in 2002, 2003 and 2004 without any request for public tender. The processing contract has an annual value of approximately $1.9 million.

Marble Mountain Development Corporation - *(Part 2.24)*

Of 8 purchases examined which were in excess of $10,000 each and required a public tender call, the Corporation contravened the *Public Tender Act* relating to 6 purchases totalling approximately $165,000 by not calling a public tender. In addition, during 2001-02, the Corporation paid $29,500 for a service contract without a public tender call.

I am concerned that Government and its agencies continue to contravene the *Public Tender Act.* Government should ensure that all departments and Crown agencies comply with this legislation.

Board Deficits

As in previous years, my Office continues to monitor the financial position and operating results of the Province's eight hospital boards, four community health care boards and eleven school boards. The financial position and operating results of these boards continues to deteriorate although funding to these boards has increased.

Hospital Boards - *(Part2.15)*

The financial statements of the eight hospital boards indicate that Government funding increased from $692.7 million in 2000-01 to $784.9 million in 2001-02. Although additional funding of $92.2 million was provided over the previous year's amount, these boards still incurred operating deficits totalling $16.5 million for the year ended 31 March 2002. The total net liabilities of the eight boards has increased from $366.1 million at 31 March 2001 to $391.3 million at 31 March 2002. These net liabilities will eventually have to be funded by Government.

Health and Community Services Boards - *(Part 2.14)*

The financial statements of the four health and community service boards indicate that Government funding increased from $165.3 million in 2000-01 to $183.8 million in 2001-02. Although additional funding of $18.5 million was provided over the previous year's amount, these boards still incurred operating deficits totalling $3.1 million for the year ended 31 March 2002. The total net liabilities of the four boards has increased from $19.8 million at 31 March 2001 to $22.2 million at 31 March 2002. These net liabilities will eventually have to be funded by Government.

School Boards - *(Part 2.7)*

The financial statements of the eleven school boards indicate that Government funding increased from $499.4 million in 2000-01 to $510.4 million in 2001-02. Although additional funding of $11 million was provided over the previous year's amount, these boards still incurred deficits totalling $741,000 for the year ended 30 June 2002. The total accumulated deficits of the eleven boards has increased from $99.2 million at 30 June 2001 to $101.0 million at 30 June 2002. These accumulated deficits will eventually have to be funded by Government.

The annual deficit shows the extent to which these boards spend more than the revenue they receive from Government and other sources in one fiscal year - it shows that these boards are not living within their means. I believe that spending within its means should be a priority for Government.

Acknowledgments

I would like to acknowledge the cooperation and assistance my Office has received from officials of the various Government departments and Crown agencies during the completion of our audits. I also wish to thank my staff for their hard work, professionalism and dedication.

JOHN L. NOSEWORTHY, C.A.
Auditor General

Reflections of the Auditor General

2.1 Framework of Accountability

Introduction

A fundamental principle of accountability is that an entity cannot be accountable to itself. True accountability requires that entities be held accountable to those who provide the resources for their operations. On behalf of the taxpayers of the Province, the House of Assembly approves the allocation of resources to Government departments, Crown agencies and Memorial University of Newfoundland. True accountability would require that these entities, in turn, report back to the House of Assembly on their use of the resources granted.

In previous Reports to the House of Assembly, my Office has expressed concern over the lack of information being provided to the House of Assembly by Government departments, Crown agencies and Memorial University of Newfoundland, all of which are funded primarily by the public purse. As part of the budgetary process, each year the House of Assembly approves approximately $4 billion in funding for these organizations. Therefore, if these entities are to be held fully accountable for their use of the resources provided by the House of Assembly, each entity must provide the House of Assembly (and the public) with information on how it plans to spend its funding, how it actually spent the funding, and what results the funding achieved.

In previous Reports, my Office recommended the implementation of a legislated accountability framework for all public sector entities in the Province, including Government departments, all Crown agencies and Memorial University of Newfoundland. This framework should include a strategic and operational planning process, clearly defined objectives, measurement criteria, a financial budget and a reporting system which provides appropriate information at various levels. The reporting process should include reports to the House of Assembly.

Conclusions

In this Province, with the exception of the Public Service Commission, no departments and only 9 of 83 Crown agencies prepared and tabled annual reports for 2001 in the House of Assembly. While other jurisdictions have been developing and implementing ways to modernize and improve their performance reporting, as far as reporting information to the House of Assembly is concerned, this Province is now further behind than it was in the 1980's and early 1990's, when some departments were preparing and tabling some form of annual report in the House of Assembly.

In my opinion, the only way that this situation will ever be resolved is through legislation which specifically requires that Government departments, all Crown agencies and Memorial University of Newfoundland prepare and publish annual performance plans and performance reports and have them tabled in the House of Assembly.

2.1 Framework of Accountability

Seventeen Crown agencies have been created without enabling legislation. A fundamental principle of the parliamentary system of government is that a public entity can only do that which it has been authorized to do by legislation. As the House of Assembly has not authorized the creation of these 17 entities, their mandate, powers, duties, responsibilities and reporting requirements to the House of Assembly have not been approved by the Legislature. Therefore, these entities are functioning as Crown agencies using public money and other public resources without a mandate authorized by the House of Assembly. This is contrary to the fundamental principles of the parliamentary system of government and is also contrary to the principles of an effective framework of accountability.

In my opinion, all Crown agencies should be created under the authority of the Legislature through separate specific legislation. This legislation should authorize the creation of these entities, and establish their mandate, powers, duties, responsibilities and reporting requirements to the House of Assembly.

Detailed Findings

Background

Prior to 1989 the various acts which created the departments of Government (with the exception of the Department of Justice) required that departments prepare annual reports on their operations and that such reports be tabled in the House of Assembly. In 1989 these departmental acts were repealed and new legislation was passed. The new acts did not contain a provision which required the preparation and tabling of an annual report by each department. As a result, this was a step backward in accountability. In addition, with the exception of enabling legislation of some Crown agencies which required that an annual report be tabled in the House of Assembly, there was no legislative requirement that all Crown agencies and Memorial University of Newfoundland table reports in the House of Assembly.

Since that time, Government has undertaken some initiatives which are intended to address the present lack of accountability of Government departments, Crown agencies and Memorial University of Newfoundland. Treasury Board Secretariat has taken a lead role for Government to promote accountability of these entities. Government's initiatives with regard to a framework of accountability can be summarized as follows:

2.1 Framework of Accountability

1. Crown Agencies

In 2000, Treasury Board Secretariat issued two documents - *"Achieving Excellence 2000-A Guidebook for Improved Accountability of Public Bodies"* and *"Achieving Excellence 2000-A Handbook for the Improved Governance of Public Bodies"*. These two documents provide an overview of some key governance principles and are intended as a reference source for public bodies. During 2002, Treasury Board Secretariat issued two more documents - *"Excellence in Governance - A Handbook for Public Sector Bodies"* and *"Excellence in Strategic Planning - Master Template"*. These documents provide support and guidance for all public sector bodies in such areas as governance, roles and responsibilities, budget and finance, strategic planning and reporting. The documents require that each minister will determine those measures to be applied to specific entities under their jurisdiction.

In addition, Treasury Board Secretariat has been working with the various entities to promote the framework of accountability which is envisaged in the four documents that they have released.

At the present time there is no legislation supporting the documents prepared by Treasury Board Secretariat and implementation is at the discretion of the minister responsible. Therefore, the system as envisaged by these documents is not mandatory. There is still no legislative requirement for all Crown agencies and Memorial University of Newfoundland to table accountability reports in the House of Assembly.

As Figure 1 shows, only 3 of 45 Crown agencies which received Government funding tabled reports for 2001 in the House of Assembly.

2. Departments

In November 1999, Cabinet Secretariat issued Guidelines for the preparation of Departmental Plans for 2001-02 to 2003-04. Departments were required to submit plans to Cabinet Secretariat by 31 January 2000 on their 1999-00 Plan. Although strategic plans have either been completed or are in final draft for all Government departments, these plans have not been made public, with the exception of the Department of Justice which has its strategic plan on its public web page.

There is no legislative requirement for all Government departments to table accountability reports in the House of Assembly. Furthermore, with the exception of the Public Service Commission, none of the Government departments tabled reports for 2001 in the House of Assembly.

2.1 Framework of Accountability

Reports Tabled in the House of Assembly

In 2000-01, 45 Crown agencies, along with the 20 Government departments received and spent approximately $4 billion in public money. Furthermore, there were an additional 38 Crown agencies which, although not in receipt of grants, are also obligated to report to the House of Assembly. Therefore, full accountability would require that each of these 83 Crown agencies and the 20 Government departments provide accountability reports to the House of Assembly.

Figure 1 indicates that of the 45 Crown agencies which received $1.6 billion, only 3 which received a total of $4.1 million had reports tabled in the House of Assembly. The Figure also shows that 6 of the 38 Crown agencies, not in receipt of grants, had reports tabled in the House of Assembly. With the exception of the Public Service Commission ($2.3 million), there were no reports tabled in the House of Assembly for any of the Government departments. In total, reports on only $6.4 million of the approximately $4 billion were tabled in the House of Assembly.

Figure 1

Annual Reports of Crown Agencies
2001 Year Ends
($000's)

Sector	Number of Entities 2001	Government Operating Grants Paid in 2000-01	2001 Annual Reports	Number of Entities 2000	Government Operating Grants Paid in 1999-00	2000 Annual Reports
Health Care Boards	10	776,871	0	10	696,028	0
School Boards and Related Entities	11	451,826	0	11	448,866	0
Memorial University of Newfoundland	1	134,852	0	1	131,425	0
Community Health Boards	4	166,610	0	4	148,300	0
College	1	58,245	0	1	56,344	0
Other Crown Agencies receiving Government Operating Grants	18	52,288	3	17	212,422	3
Entities receiving funding	45	1,640,692	3	44	1,693,385	3
Other Crown Agencies not receiving Government Operating Grants	38	0	6	39	0	4
	83	**1,640,692**	**9**	**83**	**1,693,385**	**7**

2.1 Framework of Accountability

Legislation Creating Crown Agencies

Crown agencies are generally created by the House of Assembly under some form of legislation to be an instrument for carrying out public policy on behalf of the Crown. In many cases these entities are created under their own legislation as in the case of Newfoundland and Labrador Hydro-Electric Corporation(Newfoundland and Labrador Hydro), Workplace Health, Safety and Compensation Commission, Newfoundland Liquor Corporation, and Newfoundland and Labrador Housing Corporation. In other cases they are created under general legislation such as the *Hospitals Act* under which all hospitals in the Province are created. This legislation generally authorizes the creation of these entities, and establishes their mandate, powers, duties, responsibilities and reporting requirements to the House of Assembly.

We reviewed the legislation which created the various Crown agencies to determine under what authority these entities were created and whether they were required by legislation to table annual reports in the House of Assembly. Figure 2 presents a summary of the type of legislation under which the 83 Crown agencies were created. It also shows whether these entities are required to table reports in the House of Assembly and how many did table reports for the 2001 year.

As Figure 2 shows, 17 Crown agencies have been created without enabling legislation. The creation of these Crown agencies was not approved by the House of Assembly through separate specific legislation or through general legislation authorizing the creation of a group or class of entities. As the House of Assembly has not authorized the creation of these entities, their mandate, powers, duties, responsibilities and reporting requirements to the House of Assembly have not been approved by the Legislature. A fundamental principle of the parliamentary system of government is that a public entity can only do that which it has been authorized to do by legislation. Therefore, these entities are functioning as Crown agencies using public money and other public resources without a mandate authorized by the House of Assembly.

The creation of Crown agencies without enabling legislation is contrary to the fundamental principles of our parliamentary system of government and is also contrary to the principles of an effective framework of accountability.

2.1 Framework of Accountability

Figure 2

Crown Agencies - Creation and Reporting Requirements for Tabling Annual Reports in the House of Assembly

How the Entity was Created	Number of Entities	Requirements for Annual Report to the House of Assembly	Result
Own separate legislation (with requirement for tabling of an annual report in the House of Assembly)	19	19	6 Reports tabled for 2001
Own separate legislation (with no requirement for tabling of an annual report in the House of Assembly)	16	None	3 Reports tabled for 2001
Hospitals Act	11	None	No Reports Tabled
Schools Act	11	None	No Reports Tabled
Subsidiaries of Newfoundland and Labrador Hydro - created under the *Corporations Act*	4	None	No Reports Tabled
Health and Community Services Act	4	None	No Reports Tabled
Financial Administration Act	1	None	No Reports Tabled
Entities created under enabling legislation	66	19	9 Reports Tabled
Corporations Act	16	None	No Reports Tabled
Not created under legislation	1	None	No Reports Tabled
Total	**83**	**19**	**9 Reports Tabled**

2.1 Framework of Accountability

Accountability Legislation in Other Jurisdictions

Our review of legislation of other jurisdictions indicated that Canada and the other provinces have some form of legislation which requires that departments and agencies table some form of annual report on their operations. In addition, in a number of provinces Treasury Board (Management Board) has provided formal directives relating to the preparation and tabling of annual reports. Figure 3 outlines the results of our review.

Figure 3

Accountability and Reporting Legislation in Canada

Jurisdiction	Legislation	Requirement
British Columbia	*Budget Transparency and Accountability Act*	The *Act* requires annual performance reports, strategic plans and performance plans for government, each ministry and each government organization.
Alberta	*The Government Accountability Act*	The *Act* requires business plans and an annual accountability report for government, each ministry and each accountable organization.
Saskatchewan	*The Government Organization Act*	The *Act* requires departments to report to the Legislative Assembly on the work of the department.
	Legislation creating departments and Crown Agencies	Departmental legislation and the *Financial Administration Act* require annual reporting. Legislation creating Crown agencies requires them to table their annual reports in the Legislative Assembly.
Manitoba	*The Financial Administration Act*	The *Act* requires that departments and agencies report on their operations.
Ontario	The legislation which creates the departments and agencies (as an example the *Agriculture and Food Ministry Act* and *Liquor Control Board Act*.	The legislation requires annual reports on operations. A Management Board Directive requires every agency to prepare annual reports and annual business plans.
	Bill 46 *"An Act respecting the accountability of public sector organizations"* was tabled in the Legislature in May 2001 and has received first reading.	If enacted this legislation will require all public sector organizations to prepare annual business plans and annual reports.

2.1 Framework of Accountability

Figure 3 (cont'd)

Jurisdiction	Legislation	Requirement
Québec	*The Public Administration Act*	The *Act* requires that each department or body must adopt a strategic plan which must be tabled in the National Assembly along with an annual report on the results obtained measured against the objectives set.
New Brunswick	The legislation which creates the departments and agencies (e.g. the *Health Act*, the *Highway Act* and the *Legal Aid Act*).	The legislation requires annual reports on operations. In addition, a Management Board Policy Directive requires the preparation of annual reports by all departments and agencies of the Public Service.
Nova Scotia	*The Financial Measures Act*	The *Act* requires that government prepare business plans and file reports showing outcomes against the business plan.
	The Provincial Finance Act	The *Act* requires all Crown agencies to submit annual business plans to the Legislature.
	Other legislation (e.g. the *Health Authorities Act*)	This legislation requires health authorities to prepare business plans and report on results achieved with respect to performance objectives established.
Prince Edward Island	*The Financial Administration Act*	The *Act* states that all departments and entities must submit an annual report which includes a statement of goals achieved during the reporting period.
Canada	*The Financial Administration Act*	The *Act* requires Crown Corporations to table reports. The *Act* also requires tabling of reports on Special Examinations every five years.
Newfoundland and Labrador	There is no general or umbrella legislation.	
	The acts which created the Public Service Commission and 19 Crown agencies.	These acts require the tabling of an annual report; however, the majority of the entities have not complied with their legislation.

2.1 Framework of Accountability

As Figure 3 indicates, this Province is the only jurisdiction in Canada which does not have some form of legislation which requires departments and Crown agencies to table some form of annual report on their operations. Other provinces and the Government of Canada have established various systems of accountability which include, as a minimum, the preparation of annual reports in a prescribed format. Many of these jurisdictions have established performance measurement criteria and are now using these to report on their performance relative to their approved plans. While other jurisdictions have developed and are using performance measurement criteria, the accountability issues in the Province are much more basic in that we do not have a legislative requirement for annual reports to be prepared and tabled in the House of Assembly.

Recommendations

Government should draft legislation for consideration by the House of Assembly which requires that Government departments, all Crown agencies and Memorial University of Newfoundland be held accountable to the House of Assembly for their use of public resources. This legislation should, as a minimum, require that all of these entities table annual accountability reports in the House of Assembly on their financial and operational results compared with approved plans.

All Crown agencies should be created under the authority of the Legislature through separate specific legislation or through general legislation authorizing the creation of a group or class of entities. This legislation should authorize the creation of these entities, and establish their mandate, powers, duties, responsibilities and reporting requirements to the House of Assembly.

Treasury Board Secretariat's Response

Accountability

You have concluded in your report that the province should draft accountability legislation. Government has considered legislating accountability but, at this point in time, has decided to put into place the necessary guidance and the mechanisms through policy that will result in effective and practical application of accountability principles as Boards and departmental officials work through the implementation process.

2.1 Framework of Accountability

Legislation does not necessarily lead to good accountability. Discussions with other provinces indicate that compliance is not always occurring. In fact, several provinces' legislation by definition, exclude significant public (eg. AB, BC, NB, etc.) organizations such as health boards and school boards and the requirement to table an "annual report" without considering other requirements such as the quality of the information being produced is an insufficient measure of success.

In this province, we have taken a broad-based approach to accountability that includes measures aimed at independent oversight, access to information, a social audit and consultation in addition to planning and progress reporting.

With respect to independent oversight we have established a Citizen's Representative, a Child and Youth Advocate and a Petroleum Products Pricing Commissioner, each with mandates that will enhance accountability in the delivery of government programs and services.

With respect to access to information we have introduced a new Freedom of Information Act *containing comprehensive reforms and based on recommendations from an independent panel, commenced televising the proceedings of the House of Assembly, implemented a policy of publicly releasing all reports which the Government uses to make policy decisions as they are received and amended the* House of Assembly Act *to ensure that all reports required to be tabled in the House of Assembly, including the Report of the Auditor General, are released as soon as they are received, whether or not the House is in session.*

The Province's Strategic Social Plan is founded on Government's commitment to effect overall improvement in the well-being of its residents. The entire process of the Strategic Social Plan will be supported by the development of a public progress report. The first component of this report, the Community Accounts which records key selected social, demographic and economic indicators was launched on September 16, 2002 and is readily available via the internet.

Consultation with stakeholders is another key mechanism employed to ensure accountability. Government has a consistent policy of undertaking public consultations on major policy issues such as the FPI Act, the Strategic Health Plan, the annual budget and the Electricity Policy Review.

With respect to planning and reporting, while not legislated, Government has a formalized planning process in place for departments as well as the Accountability Framework which specifies the planning and reporting requirements for government's boards, agencies and commissions. It should also be noted that the 2002 Throne Speech committed that in 2003, all departments and agencies will be required to publish annual reports that will allow the general public to judge the effectiveness of government in delivering programs and services that meet the needs of the people.

I note that the audited financial statements of the government organizations are tabled in the House of Assembly in Volume IV of the Public Accounts and some organizations have released to the public annual reports (eg. MMSB Trust Fund, Memorial University, etc.).

Creation of Crown Entities

Your recommendation of last year was considered, however, it is not always possible to use enabling legislation.

By convention, it has been a long standing practice in this province to occasionally incorporate an entity under the Corporations' Act *(ie. 1950, 1991, 1987, etc.). Factors such as: whether or not the House is sitting; the timing; the urgency for the entity to be created or the program implemented may have been considerations in such decisions. We note that there is nothing to prohibit government from incorporating an entity under the* Corporations' Act*. The Lieutenant-Governor in Council exercises due diligence in establishing the purpose and restrictions applicable in such instances.*

This province is not alone in creating entities under other legislation, including the Corporations' Act *as at least six other jurisdictions do so. I question whether there is any departure from the fundamental parliamentary system of government because of the long standing practice in this and other jurisdictions.*

All government organizations are subject to government's all inclusive accountability policies and guidelines.

Any public money provided to government organizations from the Consolidated Revenue Fund is approved by the Legislature in accordance with the requirements of the Financial Administration Act.

2.1 Framework of Accountability

2.2 Special Warrants

Introduction

The common parliamentary means of providing spending authority to government is through the annual passing of supply acts. This involves having the Members of the House of Assembly vote on the government's funding requests before the spending authority is provided. Approval by a majority of the Members of the House of Assembly is needed to pass an Act.

Through the use of a "special warrant", Government can, without the prior debate and approval of the Members of the House of Assembly, spend public money. Section 28 of the *Financial Administration Act* outlines two instances where a special warrant can be approved and additional funding can be provided to Government:

- Where the sum appropriated by the Legislature for a continuing service is insufficient to meet requirements and there are no countervailing savings available, and **the necessity is urgent.** (Section 28(2)); and

- Where the Legislature is not in session or when the House of Assembly has been adjourned for more than 30 days, and an expenditure not foreseen and not provided for by the Legislature for a new service is urgently and immediately required for the public good and **the necessity is urgent** and if not made, grave damage to the interests of the Crown or the public will result. (Section 28(3)).

The *Financial Administration Act* also requires that each Minute of Council authorizing a special warrant quote the special reasons for doing so, and a certified copy of the Minute of Council and the special warrant has to be tabled in the House of Assembly.

Figure 1 provides information on special warrants issued over the past ten years.

2.2 Special Warrants

Figure 1

Special Warrants Issued
Years Ended 31 March
($ Millions)

Year	Total Number of Special Warrants	Total Amount of Special Warrants	Special Warrants Issued in March of each Year
1993	7	42.4	2.5
1994	2	36.5	0.0
1995	13	57.9	30.4
1996	10	32.5	4.1
1997	7	75.7	75.7
1998	13	88.6	34.6
1999	14	136.0	123.8
2000	7	70.8	70.8
2001	6	61.5	33.0
2002	9	51.0	48.2
Totals	**88**	**652.9**	**423.1**

Source: Public Accounts of the Province

As indicated in Figure 1, Government's use of special warrants remains at a significant level. In previous reports, our Office has expressed concern that many of these special warrants did not meet the requirements of the *Financial Administration Act*. We have also indicated that Government often uses special warrants, especially during the last month of each fiscal year, to reduce the cash surplus of Central Government and produce whatever financial results the Government desires.

2.2 Special Warrants

Conclusion

Four special warrants totalling $33.1 million were issued in March 2002 in contravention of the *Financial Administration Act,* in that, in our opinion, there was no urgent requirement.

These special warrants were not presented at that time to the House of Assembly as either a Supplementary Supply Bill or included in the 2002-03 budget, both of which would have resulted in debate and approval. The opportunity for presentation to the House of Assembly for debate and approval was available, as follows:

- With regards to presenting a Supplementary Supply Bill to the House of Assembly, three of the special warrants totalling $32.4 million were issued on 27 March 2002, when the House of Assembly was in session. The fourth special warrant for $720,000 was issued on 15 March 2002. Although the House of Assembly was not in session on that day, it was in session on the day before and was in session again on 19 March 2002.
- With regards to the 2002-03 budget, the Interim Supply portion of that budget was approved on 26 March 2002, therefore, all of the warrants could have been included in the 2002-03 budget.

The large amount of funding provided to the Department of Health and Community Services by way of special warrant rather than through the normal budget process is indicative of the significant issues regarding the amount of funding required by the health care boards to provide health care services.

Findings

Special Warrants 2001-02

Our review disclosed that there were nine special warrants totalling $51.0 million issued in 2001-02, of which seven, totalling $48.2 million, were issued in March 2002. Figure 2 provides information on each of these special warrants totalling $51.0 million.

2.2 Special Warrants

Figure 2

Special Warrants by Department
Year Ended 31 March 2002
($ Millions)

Date of Special Warrant	Department	Details		Amount	Issued in contravention of the FAA
18 September 2001	Works, Services and Transportation	Trans Labrador Highway - Professional Services (Capital) Improvement and Construction - Provincial Roads - Purchased Services (Capital) Total	$ 0.3 2.2 $ 2.5	$2.5	
8 November 2001	Justice	Other Legal Services - Legal Aid and Related Services - Grants and Subsidies		0.3	
		Total special warrants issued to 8 November 2001		2.8	
15 March 2002	Justice	Supreme Court - Property, Furnishings and Equipment		0.7	$0.7
15 March 2002	Justice	Provincial Court - Salaries		2.0	
27 March 2002	Justice	Supreme Court - Salaries Adult Corrections Salaries Total	$ 0.024 0.388 $ 0.412	0.4	
27 March 2002	Education	Teaching Services - Grants and Subsidies Newfoundland and Labrador Education Investment Corporation - Grants and Subsidies (Capital) Total	$ 6.4 4.0 $ 10.4	10.4	4.0
27 March 2002	Health and Community Services	Community Services - Grants and Subsidies Health Care Facility Operations - Grants and Subsidies Total	$ 0.8 10.1 $ 10.9	10.9	10.9
27 March 2002	Health and Community Services	Health Care Facilities - Property, Furnishings and Equipment (Capital) Health Care Facilities - Grants and Subsidies (Capital) Total	$ 14.0 3.5 $ 17.5	17.5	17.5
27 March 2002	Health and Community Services	Drug Subsidization - Income Support - Allowances and Assistance Drug Subsidization - Senior Citizens - Allowances and Assistance Total	$ 3.0 3.3 $ 6.3	6.3	
		Total Special Warrants issued in March 2002		48.2	33.1
		Total Special Warrants issued for the 2001-02 Fiscal Year		$51.0	$33.1

2.2 Special Warrants

Our review of the nine special warrants totalling $51.0 million which were issued during 2001-02 disclosed that four special warrants totalling $33.1 million were issued in contravention of the *Financial Administration Act* in that they were not urgently required. Our review disclosed that:

- **The Department of Education** - On 27 March 2002 the Department received a special warrant in the amount of $10.4 million which included $4 million relating to the Newfoundland and Labrador Education Investment Corporation. The Corporation has a line of credit which at that date had not been fully used. Therefore, the Corporation had access to cash and could have waited the four days (one business day) until funding could have been made available from the 2002-03 budget. Therefore, the $4 million portion of the special warrant did not comply with the *Financial Administration Act*.

- **The Department of Health and Community Services** - On 27 March 2002 the Department received a special warrant relating to a transfer to various health care boards for operational funding of $10.9 million. The boards could have waited the four days (one business day) until funding could have been made available from the 2002-03 budget. Therefore, this special warrant did not comply with the *Financial Administration Act*.

- **The Department of Health and Community Services** - On 27 March 2002 the Department received a special warrant relating to a transfer to various health care boards for capital funding of $17.5 million. The boards could have waited the four days (one business day) until funding could have been made available from the 2002-03 budget. Therefore, this special warrant did not comply with the *Financial Administration Act*.

- **The Department of Justice** - On 15 March 2002 the Department received a special warrant in the amount of $720,000 for Supreme Court for the purchase of digital court recording equipment for the various courtrooms. The courts were using the existing equipment at that time and the purchase of replacement equipment, while important, was not an urgency in relation to court operations. Therefore, the special warrant did not comply with the *Financial Administration Act*.

2.2 Special Warrants

Spending Approval by the House of Assembly

The common parliamentary means of providing spending authority to government is through the annual passing of supply acts. This involves having the Members of the House of Assembly vote on the government's funding requests before the spending authority is provided. Approval by a majority of the Members of the House of Assembly is needed to pass an Act.

Through the use of a "special warrant", Government can, without the prior debate and approval of the Members of the House of Assembly, spend public money. When a special warrant is issued, Government's only obligation under the *Financial Administration Act* is to table the warrant in the House of Assembly for information purposes within three days if the House of Assembly is in session, or within fifteen days of the next commencement if it is not in session. After the monies have been spent, Government, by convention, presents a Supplementary Supply Bill to the House of Assembly.

The four special warrants totalling $33.1 million issued in March 2002 in contravention of the *Financial Administration Act*, were not presented at that time to the House of Assembly as either a Supplementary Supply Bill or included in the 2002-03 budget, both of which would have resulted in debate and approval. The opportunity for presentation to the House of Assembly for debate and approval was available. For example:

- With regards to presenting a Supplementary Supply Bill to the House of Assembly, three of the special warrants totalling $32.4 million were issued on 27 March 2002, when the House of Assembly was in session. The fourth special warrant for $720,000 was issued on 15 March 2002. Although the House of Assembly was not in session on that day, it was in session on the day before and was in session again on 19 March 2002.
- With regards to the 2002-03 budget, the Interim Supply portion of that budget was approved on 26 March 2002, therefore, all of the warrants could have been included in the 2002-03 budget.

Special Warrants for the Department of Health and Community Services from 1993 to 2002

As Figure 3 indicates, of the special warrants totalling $319.3 million which were issued from 1999 to 2002, $207.2 million or 64.9% was for the Department of Health and Community Services. For the preceding six fiscal years 1993 to 1998, only $7.3 of the $333.6 million in special warrants was issued for the Department of Health and Community

Services. The large amount of funding provided by way of special warrant rather than through the normal budget process is indicative of the significant issues regarding the amount of funding required by the health care boards to provide health services.

Of the $207.2 million in special warrants issued from 1999 to 2002 for the Department of Health and Community Services, $166.1 million or 80% was provided during the last month of the fiscal year. We are concerned that Government often waits until late March of each year, determines its cash surplus at that point in time and provides additional funding to the extent necessary to provide a predetermined financial result in the Consolidated Revenue Fund.

Figure 3

Amount of Special Warrants Issued for the Department of Health and Community Services Years Ended 31 March ($ Millions)

Year	Total Special Warrants Issued	Special Warrants Issued for the Department of Health and Community Services	Percentage of Special Warrants Issued for the Department of Health and Community Services
1993	42.4	0.0	
1994	36.5	0.0	
1995	57.9	0.0	
1996	32.5	0.8	
1997	75.7	3.5	
1998	88.6	3.0	
Total 1993 to 1998	**333.6**	**7.3**	**2.2%**
1999	136.0	72.1	
2000	70.8	43.7	
2001	61.5	56.7	
2002	51.0	34.7	
Total 1999 to 2002	**319.3**	**207.2**	**64.9%**
Total 1993 to 2002	**652.9**	**214.5**	

2.2 Special Warrants

Treasury Board Secretariat's Response

It should be noted that utilizing Special Warrants for continuing services when the Legislature is in session has been a long standing practice and is permitted under the Financial Administration Act *(FAA). Any funding obtained via Special Warrants is also subsequently included in a Supply Bill. The provision of funding by Special Warrants is common in the other provinces.*

The need for Special Warrants will inevitably arise from time to time, and Special Warrants have, in fact, been issued in most years. In the past, given higher revenues than expected, towards year end Government has utilized the Special Warrants mechanism to make some expenditures that they felt served the public good. This was in an effort to avail of year-end flexibility and provide for a stable financial performance.

The suggestion that funding could have been included in the 2002-2003 Budget overlooks that Government had flexibility to incur these expenditures in the 2001-2002 year but that this flexibility may not have existed for 2002-2003.

The suggestion that three Special Warrants dated 27 March 2002, totalling $32.4 million, could have been included in a Supplementary Supply Bill overlooks the time constraints, at that time, associated with having a Supplementary Supply Bill introduced, debated and passed by the House of Assembly.

The FAA does not define or qualify what should constitute urgency. In all cases approrpriate statements as to urgency had been prepared by Ministers, and were tabled in the House of Assembly, as required by the Act. *Presumably, in these cases, the appropriate Ministers felt there was an urgency, and the House of Assembly obviously concurred. For example, the Department of Justice advises that the $720,000 Special Warrant for court recording equipment was urgent, given recent equipment failures and the significant ramifications of such equipment failures and possible impact upon the justice system. The $10.9 million Special Warrant for the Department of Health and Community Services related to the cost of occupational reclassifications approved during the fiscal year and implemented by the Regional Health Boards. Accordingly, I believe that the Special Warrants meet the requirements of the* Financial Administration Act.

2.2 Special Warrants

Regarding your comments relating to the issuance of Special Warrants as a mechanism providing Government with flexibility to provide a predetermined financial result in the Consolidated Revenue Fund, it should be noted that the payments relating to the appropriations authorized by the Special Warrants were properly accounted for in the Consolidated Revenue Fund financial statements.

Details on the particulars of Special Warrants and the disposition of funds should be directed to the appropriate Minister of the applicable department.

Department of Education's Response

Government committed to allocate $12 million to the Newfoundland and Labrador Education Investment Corporation over a three year period which commenced in fiscal year 2001/02. At the end of fiscal year 2001/02, government availed of its year-end financial flexibility to fulfill the third year of its commitment to the Education Investment Corporation. This was done in the best interest of the public and by availing of year-end flexibility, it also provided for a stable financial performance. It should be noted that the payments relating to the appropriations authorized by the special warrant were properly accounted for in the Consolidated Revenue Fund financial statements.

Department of Health and Community Services' Response

***Reclassification of Health Professionals** - In 2000 the Government announced a classification review of licensed practical nurses, social workers, lab & x-ray, etc. The time needed to conduct the review, assess the findings and calculate the cost of implementation meant the determination of the amount of funding required was unknown until late in the fiscal year. As these occupational reclassifications had been approved by Treasury Board for implementation during the year and acted upon by the regional health boards, it was necessary to reimburse the boards.*

***Capital Funding** - Due to improved fiscal flexibility the Government approved special warrants to enable regional health boards to commence much needed renovations and acquire capital equipment.*

2.2 Special Warrants

Special Warrants Department of Health and Community Services 1993-2002

Special warrants during this period have been issued primarily to support the operations of Regional Health Care Boards. In prior years, reports from your office have expressed concern about the financial performance and fiscal stability of Regional Health Boards. The Department shares this concern. While the province has increased board budgets significantly over the last number of years, they collectively continue to struggle to meet the service delivery needs driven by an aging population, advances in medical technology, etc., within the funding provided by government. If government has some flexibility toward year end due to higher than expected revenues then addressing the acknowledged pressures in health care is a prudent use of this funding.

Department of Justice's Response

Recording equipment is essential to the operations of the Courts. Although existing equipment, purchased in 1991, was approximately 3 years past its useful life, the Department, in the interest of good stewardship, was attempting to extend its usefulness for one more year.

However, throughout fiscal 01/02, breakdowns and malfunctioning of equipment was becoming more frequent. Some equipment was held together with tape and rubber bands. Other equipment was beyond repair as needed parts were unavailable. One incident of a damaged tape during a murder trial had potential to cause a mis-trial. Fortunately testimony on the damaged tape was retrievable as a new trial would likely have cost the Court in excess of $100,000.

The Courts had reached a point where, on any given day, equipment failure could hamper its constitutional obligation to provide a timely and fair trial. The ramifications of increased court costs, the human toll on victims and witnesses and public confidence in the justice system were of such significance that it was considered both urgent and prudent to request a Special Warrant and initiate an immediate purchase process. The process itself, from funding approval through the tendering requirements to final delivery of the equipment began early in February and ended late in March, a period of approximately two months.

2.3 Borrowing without Authority

Introduction

In general, most Crown agencies are created under some form of legislation which establishes their mandate, powers, duties, responsibilities and reporting requirements to the House of Assembly. Where a Crown agency has been created by legislation, the legislation usually provides direction as to procedures which the Crown agency must follow if it intends to borrow funds. If the enabling legislation does not provide specific authority for the Crown agency to borrow funds or if it has been created under the Corporations Act, then the Crown agency does not have the legislative authority to borrow. Section 37 of the *Financial Administration Act* states that; *"No money shall be raised by way of loan by the province except under this or some other Act of the Legislature."* and Section 52 of the Act states that *".... nothing in this Act authorizes an increase in the public debt without the express authority of the Legislature"*. In other words, Government departments and Crown agencies cannot borrow money without the express authority of the Legislature.

Information on how Government's Crown agencies have been created is outlined in Figure 1.

Figure 1

Creation of Crown Agencies

How the Crown Agency was Created	Number of Entities
Own separate legislation	36
Hospitals Act	11
Schools Act	11
Subsidiaries of Newfoundland and Labrador Hydro - created under the *Corporations Act*	4
Health and Community Services Act	4
Financial Administration Act	1
Crown agencies created under legislation	67
Corporations Act	17
Not created under legislation	1
Total	**85**

2.3 Borrowing without Authority

Scope and Objectives

We reviewed the *Financial Administration Act* and other legislation to determine under what authority Crown agencies borrow money.

We also reviewed the financial statements and other supporting information of the Crown agencies which were created under the *Corporations Act* to determine whether they had any debt due outside of the government reporting entity at the most recent financial statement date.

Conclusion

The most recent financial statements of the 17 Crown agencies created under the *Corporations Act* disclosed that 4 of these entities had a total of $43.8 million in outstanding debt due to entities outside of the government reporting entity. If the enabling legislation of an agency does not provide specific authority for it to borrow funds or if it has been created under the *Corporations Act*, then the Crown agency does not have the legislative authority to borrow. The *Financial Administration Act* prohibits the raising of money by way of loan without legislative authority. As a result, these entities contravened the *Financial Administration Act* by borrowing money without legislative authority.

Findings and Recommendation

Our review of the legislation under which the Crown agencies were created, as outlined in Figure 1, disclosed the following:

- For the 36 agencies created under their own separate legislation, 16 were granted authority to borrow while the remaining 20 were not granted this authority. Of the 16 agencies which were granted legislative authority to borrow, 9 must receive prior approval of the Lieutenant-Governor in Council, 5 must receive prior approval of the minister and in 2 cases (one of which is no longer active) the agency may borrow on its own.

- For the 17 agencies created under the *Corporations Act,* there is no provision or authority in legislation to borrow funds.

- For the 11 agencies created under the *Hospitals Act,* the *Act* provides that they may borrow subject to the approval of the minister.

- For the 11 agencies created under the *Schools Act,* the *Act* provides that they may borrow subject to the prior written approval of the minister.

2.3 Borrowing without Authority

- The 4 subsidiaries of Newfoundland and Labrador Hydro, which were created under the *Corporations Act*, are covered by the *Hydro Corporation Act* which permits Newfoundland and Labrador Hydro to borrow subject to the prior approval of the Lieutenant-Governor in Council.

- The 4 agencies created under the *Health and Community Services Act* have no legislative authority to borrow.

- The Newfoundland Government Sinking Fund, created under the *Financial Administration Act* has no legislative authority to borrow.

- The Newfoundland and Labrador Centre for Health Information has not been created under any legislation and therefore has no legislative authority to borrow.

As indicated above, the 17 agencies which were created under the *Corporations Act* do not have the legislative authority to borrow. Although these entities do not have the authority to borrow, our review of the most recent financial statements and other supporting information relating to these Crown agencies indicated that 4 had total borrowings of $43.8 million. Figure 2 provides a listing of Crown agencies created under the *Corporations Act* along with details of the borrowings of $43.8 million.

2.3 Borrowing without Authority

Figure 2

Crown Corporations Created under the *Corporations Act*

Corporation Name	Year Created	Most Recent Year End	2002 Total Borrowing Outside Government $	2001 Total Borrowing Outside Government $
1. Bull Arm Site Corporation	1995	31 March 2002	0	0
2. Hotel Buildings Limited	1966	31 March 2002	0	0
3. Marble Mountain Development Corporation	1988	30 April 2002	1,862,907	1,284,564
4. Marble Mountain Management Corporation	1996	30 April 2002	0	0
5. Municipal Assessment Agency Inc.	1997	31 March 2002	0	0
6. Newco IV Corporation	1987	31 December 2001	0	0
7. Newfoundland and Labrador Education Investment Corporation	1998	31 March 2002	27,356,349	1,313,479
8. Newfoundland and Labrador Film Development Corporation	1997	31 March 2002	0	0
9. Newfoundland and Labrador Heritage Corporation	1999	31 March 2002	9,690,323	3,886,337
10. Newfoundland and Labrador Student Investment and Opportunity Corporation	2001	31 March 2002	0	0
11. Newfoundland Government Fund Limited	1995	31 December 2001	0	0
12. Newfoundland Hardwoods Limited	1950	31 March 2002	0	0
13. Newfoundland Ocean Enterprises Limited	1988	31 March 2002	4,850,000	600,000
14. Newvest Realty Corporation	2001	31 December 2001	0	0
15. Operation ONLINE Inc.	1996	31 March 2001	0	0
16. Special Celebrations Corporation of Newfoundland and Labrador, Inc.	1998	31 March 2002	0	0
17. The John Cabot (1997) 500th Anniversary Corporation	1992	31 March 2002	0	0
Total			**43,759,579**	**7,084,380**

2.3 Borrowing without Authority

Recommendation

Crown agencies should not borrow without the express legislative authority of the Legislature.

Treasury Board Secretariat's Response

You have commented that entities created under the Corporations Act *may not have specific legislative authority to borrow. However, in recent years the Articles of Incorporation/Bylaws for these corporations have specific provision for borrowing, but only with the approval of the Lieutenant-Governor in Council.*

In addition, the financial institutions generally require a guarantee of the Province prior to lending. In fact, all four of the entities you have identified have guarantees in place by the Province pursuant to the Loan and Guarantee Act. *A Schedule is prepared pursuant to that* Act *and tabled in the House, clearly indicating the limits of guarantees provided by the Province.*

Entities created under the Corporations Act *are created in their own right and their borrowings do not obligate the Crown unless provincial guarantees are provided under legislation.*

2.3 Borrowing without Authority

2.4 Monitoring Expenditures of the Consolidated Revenue Fund

Introduction

As part of our audit of the financial statements of the Consolidated Revenue Fund (CRF), we perform tests and reviews of the expenditures made by the various departments. Figure 1 outlines expenditures, by category, recorded in the Consolidated Revenue Fund financial statements for the years ended 31 March.

Figure 1

Consolidated Revenue Fund Expenditures
By Category
Years Ended 31 March
($ Millions)

Consolidated Revenue Fund Expenditures		
Category	**2002**	**2001**
Salaries and Benefits	363	324
Transportation and Communications	37	36
Supplies	54	57
Professional Services	198	193
Purchased Services	250	240
Property, Furnishings and Equipment	49	44
Allowances and Assistance	343	334
Grants and Subsidies	1,985	1,843
Debt Expenses	880	878
Information Technology	26	26
Bad Debts	11	28
Total	**4,196**	**4,003**

Source: Consolidated Revenue Fund financial statements

2.4 Monitoring Expenditures of the Consolidated Revenue Fund

During the past year, we obtained expenditure information from Government's accounting system relating to all expenditures of the Consolidated Revenue Fund. We performed a general review and analysis of amounts paid relating to: grants and subsidies; property, furnishings and equipment; purchased services; professional services; allowances and assistance; and transportation and communications. Details of the expenditures in each of these categories are provided as follows:

Grants and Subsidies

Government has established programs which provide grants or subsidies to various Crown agencies, private corporations and individuals. These payments are made to health care boards, for the operation of the Province's hospitals, to school boards, for the operation of the Province's schools and teachers' salaries, to the College of the North Atlantic and Memorial University of Newfoundland, and to certain Crown agencies for operational funding. Other grants and subsidies are paid to private corporations and individuals in accordance with Government support programs.

During the year we continued our process of monitoring and reviewing payments made for grants and subsidies. Figure 2 shows, by department, payments made for grants and subsidies for the year ended 31 March 2002 totalling $1.985 billion with comparative figures for the year ended 31 March 2001.

As the figure indicates, for the year ended 31 March 2001, payments for grants and subsidies were approximately $1.843 billion and represented approximately 46% of the total expenditures of the Consolidated Revenue Fund. For the year ended 31 March 2002, grants and subsidies amounted to approximately $1.985 billion or approximately 47% of the total expenditures of the Consolidated Revenue Fund.

2.4 Monitoring Expenditures of the Consolidated Revenue Fund

Figure 2

Grants and Subsidies Expenditures
By Department
Years Ended 31 March
($000's)

Grants and Subsidies Expenditures by Department		
Department	**2002**	**2001**
Health and Community Services	1,164,758	1,033,619
Education	510,255	503,198
Youth Services and Post Secondary Education	197,067	180,811
Municipal and Provincial Affairs	30,308	31,853
Industry, Trade and Rural Development	22,151	25,411
Human Resources and Employment	13,227	20,375
Newfoundland and Labrador Housing Corporation	11,550	10,181
Justice	6,797	5,902
Tourism, Culture and Recreation	5,564	6,809
Works, Services and Transportation	5,310	6,012
Mines and Energy	5,178	3,671
Labrador and Aboriginal Affairs	4,213	3,968
Fisheries and Aquaculture	3,224	2,507
Forest Resources and Agrifoods	2,453	3,360
Executive Council	1,453	1,169
Finance	604	4,041
Legislature	204	94
Environment	111	225
Government Services and Lands	110	59
Labour	33	28
Public Service Commission	-	5
Total	**1,984,570**	**1,843,298**

Source: Government's Financial Information System

2.4 Monitoring Expenditures of the Consolidated Revenue Fund

We also summarized the payments of grants and subsidies by the type of entity for the year ended 31 March 2002 with comparative figures for the year ended 31 March 2001. The results of this summary are outlined in Figure 3.

Figure 3

Grants and Subsidies Expenditures
By Type of Entity
Years Ended 31 March
($000's)

Types of Entities Receiving Grants and Subsidies		
Type of Entity	**2002**	**2001**
Hospitals and Health Services Boards	919,301	814,945
Teachers' Payroll	362,620	345,591
Community Health Boards and Related Entities	220,924	195,882
Memorial University of Newfoundland	149,068	134,852
School Boards and Related Entities	124,518	135,735
College of the North Atlantic	59,563	58,245
Economic Renewal, Labour Market and Industry Support	43,226	44,765
Municipalities	30,308	31,853
Educational Agencies and Post Secondary Education Support	15,951	13,312
Newfoundland and Labrador Housing Corporation	11,550	10,181
Ferry Operations and Transportation Grants	10,356	11,244
Provincial Information and Libraries Resources Board	7,730	7,061
Newfoundland and Labrador Legal Aid Commission	6,482	5,665
Newfoundland and Labrador Education Investment Corporation	5,350	11,883
Canada-Newfoundland Offshore Petroleum Board	2,700	2,172
Labrador Agreement and Native Peoples Support	2,613	2,489

Figure 3 (cont'd)

Types of Entities Receiving Grants and Subsidies		
Type of Entity	**2002**	**2001**
Agricultural Development	2,346	2,242
Recreation and Sport	1,704	1,730
Culture and Heritage	1,398	1,189
Newfoundland and Labrador Film Development Corporation	500	670
Newfoundland and Labrador Municipal Financing Corporation	-	3,000
Newfoundland and Labrador Industrial Development Corporation	-	450
C. A. Pippy Park Commission	-	410
Other Miscellaneous Grants	6,362	7,732
Total	**1,984,570**	**1,843,298**

Source: Government's Financial Information System

Figure 4 provides the names of all entities which received grants and subsidies funding in excess of $10 million for the year ended 31 March 2002 with comparative figures for the year ended 31 March 2001.

2.4 Monitoring Expenditures of the Consolidated Revenue Fund

Figure 4

Grants and Subsidies Expenditures
Payments in Excess of $10 million
Years Ended 31 March
($000's)

Entities Which Received in Excess of $10 Million		
Entity	**2002**	**2001**
Health Care Corporation of St. John's	374,822	333,567
Memorial University of Newfoundland	149,068	134,852
Western Health Care Corporation	125,869	102,982
Central West Health Care Corporation	72,961	64,324
Community Health - St. John's	71,186	64,184
College of the North Atlantic	60,020	58,245
Peninsulas Health Care Corporation	58,371	49,628
Central East Health Care Corporation	57,922	51,268
St. John's Nursing Home Board	54,387	48,109
Avalon Health Care Corporation	49,445	43,745
Labrador Health Services Board	43,825	36,855
Eastern Regional Community Health Board	40,341	35,666
Central Newfoundland Regional Community Health Board	39,267	33,840
Grenfell Regional Health Care Corporation	38,527	36,583
Western Newfoundland Regional Community Health Board	34,119	32,920
District #10 School Board	27,304	24,422
Canadian Blood Services	19,467	16,949
Newfoundland Cancer Treatment and Research	14,108	9,810
Avalon West School Board	12,882	10,617
Newfoundland and Labrador Housing Corporation	11,550	10,181
School District #6	10,778	12,062

Figure 4 (cont'd)

Entities Which Received in Excess of $10 Million		
Entity	**2002**	**2001**
School District #5	10,539	11,834
School District #3	9,855	10,062
Newfoundland and Labrador Education Investment Corporation	5,350	11,883
Grants under $10 million paid to over 4,800 entities or individuals in 2002 (2001 - over 4,600 entities or individuals)	592,607	598,710
Total	**1,984,570**	**1,843,298**

Source: Government's Financial Information System

Property, Furnishings and Equipment

The Property, Furnishings, and Equipment category generally includes capital items such as equipment purchased for use by Government departments. This category also includes grants made by the Department of Health and Community Services to the various hospital and health care boards for the purchase of equipment. During the year ended 31 March 2002, the Province paid $31.8 million (2001 - $25.8 million) to the hospital and health care boards for equipment which is included in the property, furnishings and equipment category. As indicated in Figure 1, payments for property, furnishings and equipment totalled $49 million for the year ended 31 March 2002. Figure 5 shows, by department, payments made for property, furnishings and equipment for the year ended 31 March 2002 with comparative figures for the year ended 31 March 2001.

2.4 Monitoring Expenditures of the Consolidated Revenue Fund

Figure 5

Property, Furnishings and Equipment Expenditures
By Department
Years Ended 31 March
($000's)

Property, Furnishings and Equipment Expenditures by Department		
Department	**2002**	**2001**
Health and Community Services	31,868	25,827
Works, Services and Transportation	7,069	9,442
Municipal and Provincial Affairs	4,611	3,309
Justice	1,496	1,186
Forest Resources and Agrifoods	1,424	1,497
Tourism, Culture and Recreation	731	687
Youth Services and Post Secondary Education	537	515
Education	353	92
Fisheries and Aquaculture	263	221
Government Services and Lands	220	280
Human Resources and Employment	153	75
Executive Council	92	101
Mines and Energy	91	78
Labrador and Aboriginal Affairs	87	6
Environment	83	140
Industry, Trade and Rural Development	61	62
Labour	57	52
Finance	32	66
Legislature	12	29
Public Service Commission	5	14
Total	**49,245**	**43,679**

Source: Government's Financial Information System

2.4 Monitoring Expenditures of the Consolidated Revenue Fund

We also summarized the payments for property, furnishings and equipment to show all entities which received payments in excess of $1 million for the year ended 31 March 2002 with comparative figures for the year ended 31 March 2001. These entities are listed in Figure 6.

Figure 6

Property, Furnishings and Equipment Expenditures
Payments in Excess of $1 million
Years Ended 31 March
($000's)

Entities Which Received in Excess of $1 Million		
Entity	**2002**	**2001**
Health Care Corporation of St. John's	15,430	11,246
Peninsulas Health Care Corporation	2,694	1,366
Central West Health Care Corporation	2,412	1,457
Western Health Care Corporation	2,260	3,081
Avalon Health Care Institutions Board	1,987	1,463
Toromont Cat	1,262	-
The Salvation Army	1,176	1,176
Central East Health Care Corporation	1,078	1,028
Avalon Ford Sales Limited	1,026	690
Harvey & Co. Ltd.	958	1,791
Grenfell Regional Health Services	917	1,077
Field Aviation Company Limited	-	2,950
Payments under $1 million to over 700 entities in 2002 (2001 - over 500 entities)	18,045	16,354
Total	**49,245**	**43,679**

Source: Government's Financial Information System

2.4 Monitoring Expenditures of the Consolidated Revenue Fund

Purchased Services

Purchased services includes such services as heat and light, general maintenance, printing, vehicle rentals and repairs, advertising, and insurance. As indicated in Figure 1, payments for purchased services totalled $250 million for the year ended 31 March 2002. Figure 7 shows, by department, payments made for purchased services for the year ended 31 March 2002 with comparative figures for the year ended 31 March 2001.

Figure 7

Purchased Services Expenditures By Department Years Ended 31 March ($000's)

Purchased Services Expenditures by Department		
Department	**2002**	**2001**
Works, Services and Transportation	197,176	193,361
Forest Resources and Agrifoods	9,162	8,705
Tourism, Culture and Recreation	6,614	6,286
Justice	5,871	5,463
Industry, Trade and Rural Development	5,688	2,297
Youth Services and Post Secondary Education	5,155	7,193
Municipal and Provincial Affairs	4,858	3,616
Government Services and Lands	2,996	2,715
Mines and Energy	2,210	1,556
Education	2,203	1,706
Fisheries and Aquaculture	1,570	1,442
Human Resources and Employment	1,554	1,575
Executive Council	1,468	1,188
Health and Community Services	973	724
Legislature	780	715
Environment	686	476
Finance	240	256
Public Service Commission	192	194
Labour	171	187
Labrador and Aboriginal Affairs	128	41
Consolidated Fund Services	22	446
Total	**249,717**	**240,142**

Source: Government's Financial Information System

2.4 Monitoring Expenditures of the Consolidated Revenue Fund

We also summarized the payments for purchased services to show all entities which received payments in excess of $1 million for the year ended 31 March 2002 with comparative figures for the year ended 31 March 2001. These entities are listed in Figure 8.

Figure 8

Purchased Services Expenditures
Payments in Excess of $1 million
Years Ended 31 March
($000's)

Entities Which Received in Excess of $1 Million		
Entity	**2002**	**2001**
Johnson Construction Ltd.	15,485	10,688
Olympic Construction Ltd.	14,117	3,175
Allied Constructors Inc.	11,012	428
RDN Construction	9,828	8,857
Humber Valley Paving	8,985	3,526
McNamara Construction Company	6,228	8,611
Newfoundland Power	5,752	6,016
Pennecon Ltd.	5,535	-
Municipal Construction Ltd.	5,274	4,216
Mariner Engineering	5,138	1,160
Federal - Provincial Contractors - Holdback Account	4,945	4,990
Terra Nova Industries Ltd.	4,904	2,724
Labrador Marine Inc.	4,695	4,798
Provincial Paving	4,535	6,924
Penney Paving	3,908	5,481
Labrador Construction Limited	3,901	7,357
Bonne Bay Contractors	3,798	3,569
Bristol Communications Ltd.	3,243	2,469
10663 Newfoundland Limited	3,054	3,464
J-1 Contracting Limited	2,893	3,795
Trident Construction Limited	2,782	1,812
College of the North Atlantic	2,779	2,505
Glenn Corp Ltd.	2,677	2,039
EBC Inc.	2,488	3,924
H.J. O'Connell Construction Ltd.	2,436	3,199
Northland Contracting Inc.	2,397	630
Concord Paving Limited	2,268	1,751

2.4 Monitoring Expenditures of the Consolidated Revenue Fund

Figure 8 (cont'd)

Entities Which Received in Excess of $1 Million		
Entity	**2002**	**2001**
Sun Construction Co. Ltd.	1,956	54
Metal World Inc.	1,873	-
Canship Limited	1,865	4,375
Marine Contractors Inc.	1,804	101
Central East Health Care Board	1,606	1,470
Star Line Inc.	1,597	-
Crown Paving	1,591	1,239
Newfound Construction Ltd.	1,538	819
Corner Brook Pulp and Paper Ltd.	1,326	2,145
Marsh Canada Ltd.	1,298	1,479
Chimo Construction Ltd.	1,255	-
Newfoundland and Labrador Hydro	1,137	1,052
Abitibi Consolidated Inc.	1,134	1,853
Dome Productions Inc.	1,102	-
Puddister Trading Company Ltd.	890	1,007
St. John's Dockyard Limited	775	3,126
Irving Oil	750	1,221
Kelloways Construction	680	1,010
S M Construction	588	15,225
Colby Construction Ltd.	563	2,754
Western Construction Co. Ltd.	358	6,233
Adams Construction (1975) Ltd.	307	1,223
BCL Construction Ltd.	193	1,915
Island Aggregates & Ready Mix	107	1,772
Marine Institute of Memorial University of Newfoundland	85	2,624
Tristar Mechanical Ltd.	60	1,383
Tech Construction Ltd.	21	1,168
Midland Construction	11	1,052
Nova Services	5	1,097
Chard's Construction Ltd.	-	2,280
Health Labrador Corporation	-	1,972
W & J Construction Ltd.	-	1,561
Payments under $1 million to over 5,600 entities or individuals (2001 - over 5,500 entities or individuals)	78,185	68,824
Total	**249,717**	**240,142**

Source: Government's Financial Information System

2.4 Monitoring Expenditures of the Consolidated Revenue Fund

Professional Services

Professional services generally include the fees and expenses of those engaged in a specialty profession such as accountants, doctors, lawyers, and engineers who provide a service, a report or advice to Government. As indicated in Figure 1, payments for professional services totalled $198 million for the year ended 31 March 2002. Figure 9 shows, by department, payments made for professional services for the year ended 31 March 2002 with comparative figures for the year ended 31 March 2001.

Figure 9

Professional Services Expenditures
By Department
Years Ended 31 March
($000's)

Professional Services Expenditures by Department		
Department	**2002**	**2001**
Health and Community Services	138,849	134,646
Justice	43,281	41,188
Works, Services and Transportation	4,685	5,906
Industry, Trade and Rural Development	1,858	1,556
Consolidated Fund Services	1,704	3,932
Education	1,500	395
Mines and Energy	1,036	670
Environment	876	650
Forest Resources and Agrifoods	789	668
Labour	680	811
Executive Council	671	821
Municipal and Provincial Affairs	649	871
Youth Services and Post Secondary Education	361	131
Tourism, Culture and Recreation	304	399
Government Services and Lands	251	178
Fisheries and Aquaculture	246	33
Finance	177	164
Public Service Commission	156	188
Labrador and Aboriginal Affairs	128	115
Human Resources and Employment	112	221
Legislature	73	38
Total	**198,386**	**193,581**

Source: Government's Financial Information System

2.4 Monitoring Expenditures of the Consolidated Revenue Fund

We also summarized the payments of professional services to show all entities or individuals who received payments in excess of $500,000 for the year ended 31 March 2002 with comparative figures for the year ended 31 March 2001. These entities or individuals are listed in Figure 10.

Figure 10

Professional Services Expenditures
Payments in Excess of $500,000
Years Ended 31 March
($000)'s

Payments in Excess of $500,000		
Entity	**2002**	**2001**
Receiver General For Canada (RCMP Contract etc.)	39,329	37,666
Medical Practice Associates	11,565	12,427
HSC Associated Radiologists	3,145	3,063
Radiology Group - St. Clare's	2,885	2,260
Nephrology Partnership	1,870	1,423
Amec E & C Services Ltd.	1,183	299
Pediatric Diagnostic Imaging	976	801
Newfoundland Design Associates Ltd.	906	609
xwave	818	837
Burin Peninsula Health Care Center	811	494
Dr. Kevin N. Melvin	784	681
Carbonear General Hospital	776	695
Bae-Newplan Group Ltd	620	812
Western Health Care Corporation	566	368
Dr. Kam W. Mong	553	440
Dr. Eng T. Tjon	504	497
Agra Monenco Atlantic Inc.	-	1,332
Newfoundland Radiological Associates	-	570
Payments under $500,000 to over 1,800 entities or individuals (2001 - over 1,700 entities or individuals)	131,095	128,307
Total	**198,386**	**193,581**

Source: Government's Financial Information System

2.4 Monitoring Expenditures of the Consolidated Revenue Fund

Allowances and Assistance

Allowances and assistance expenditures include costs relating to such items as: allowances for Members of the House of Assembly, social assistance allowances paid to individuals, out of court settlements, and allowances paid on behalf of individuals to organizations. As indicated in Figure 1, payments for allowances and assistance totalled $343 million for the year ended 31 March 2002. Figure 11 shows, by department, payments made for allowances and assistance for the year ended 31 March 2002 with comparative figures for the year ended 31 March 2001.

Figure 11

Allowances and Assistance Expenditures
By Department
Years Ended 31 March
($000's)

Allowances and Assistance Expenditures by Department		
Department	**2002**	**2001**
Human Resources and Employment	217,312	223,402
Health and Community Services	91,233	81,787
Youth Services and Post Secondary Education	19,331	20,322
Legislature	5,135	4,893
Justice	5,127	1,995
Education	4,626	885
Municipal and Provincial Affairs	198	175
Works, Services and Transportation	174	129
Public Service Commission	108	122
Labour	64	61
Executive Council	20	20
Forest Resources and Agrifoods	20	20
Total	**343,348**	**333,811**

Source: Government's Financial Information System

2.4 Monitoring Expenditures of the Consolidated Revenue Fund

We also summarized the payments of allowances and assistance to show all entities which received payments in excess of $500,000 for the year ended 31 March 2002 with comparative figures for the year ended 31 March 2001. These entities are listed in Figure 12.

Figure 12

Allowances and Assistance Expenditures
Payments in Excess of $500,000
Years Ended 31 March
($000's)

Payments in Excess of $500,000		
Entity	**2002**	**2001**
xwave	79,298	69,005
Health Care Corporation of St. John's	2,471	1,262
Minister of Finance (Ontario)	1,400	1,354
Memorial University of Newfoundland	976	874
Williams, Roebothan, McKay, Marshall (In Trust)	967	71
Medical Services Insurance	954	1,583
The Salvation Army - Wiseman Centre	630	519
Provincial Treasurer of Alberta	536	559
Association for New Canadians	409	673
Miscellaneous amounts under $500,000 paid to over 2,800 entities or individuals (2001-over 2,000 entities or individuals)	255,707	257,911
Total	**343,348**	**333,811**

Source: Government's Financial Information System

Transportation and Communications

Transportation and communications expenditures include costs relating to such items as: postage, freight, ambulance and air services, telecommunication services and travel for ministers, government employees and others. As indicated in Figure 1, payments for transportation and communications totalled $37 million for the year ended 31 March 2002. Figure 13 shows, by department, payments made for transportation and communications for the year ended 31 March 2002 with comparative figures for the year ended 31 March 2001.

2.4 Monitoring Expenditures of the Consolidated Revenue Fund

Figure 13

Transportation and Communications Expenditures By Department
Years Ended 31 March
($000's)

Transportation and Communications Expenditures by Department		
Department	**2002**	**2001**
Works, Services and Transportation	8,141	9,399
Forest Resources and Agrifoods	5,376	3,968
Justice	3,464	3,271
Tourism, Culture and Recreation	3,087	2,656
Industry, Trade and Rural Development	2,032	2,012
Human Resources and Employment	1,906	2,026
Government Services and Lands	1,887	2,034
Education	1,778	1,742
Executive Council	1,510	1,477
Mines and Energy	1,378	1,361
Health and Community Services	1,358	1,201
Fisheries and Aquaculture	951	1,002
Municipal and Provincial Affairs	752	681
Youth Services and Post Secondary Education	734	542
Finance	633	605
Labour	619	552
Labrador and Aboriginal Affairs	591	445
Legislature	575	542
Environment	569	463
Public Service Commission	99	155
Consolidated Fund Services	-	212
Total	**37,440**	**36,346**

Source: Government's Financial Information System

We also summarized the payments for transportation and communications to show all entities which received payments in excess of $100,000 for the year ended 31 March 2002 with comparative figures for the year ended 31 March 2001. These entities are listed in Figure 14.

2.4 Monitoring Expenditures of the Consolidated Revenue Fund

Figure 14

Transportation and Communications Expenditures
Payments in Excess of $100,000
Years Ended 31 March
($000's)

Entities Which Received in Excess of $100,000		
Entity	**2002**	**2001**
GT Group Telecom Services Corporation	2,702	3
Universal Helicopters Nfld. Ltd	2,568	2,637
Postage by Phone	2,067	1,562
Newtel Mobility Limited	1,144	1,024
Newtel Communications Inc.	1,109	830
Newfoundland Telephone Company (Contract)	1,098	1,312
Supermarine Aircraft	1,080	300
10663 Nfld Limited	939	1,035
Canadian Helicopters Limited	934	1,267
Canada Post Corporation	871	1,246
Harvey's Travel	731	783
Cable Atlantic	417	2,947
Newfoundland Helicopters Ltd.	401	287
Provincial Airlines Limited	381	285
Active Movers Ltd.	298	42
Legrow's Travel	284	615
Newfoundland and Labrador Hydro	201	201
City of St. John's	181	177
Household Movers and Shippers Ltd.	153	48
Newfoundland and Labrador Air Transport Ltd.	146	313
Labrador Travel Air Ltd.	128	53
Mokami Travel Service Limited	106	54
Telemedicine Centre	51	264
Cougar Execujet	-	247
Miscellaneous amounts paid to over 7,400 individuals or entities (2001 - to over 7,700 individuals or entities)	19,450	18,814
Total	**37,440**	**36,346**

Source: Government's Financial Information System

2.5 Monitoring Agencies of the Crown

Introduction

Most agencies of the Crown do not have any requirement to report to the House of Assembly on the discharge of their responsibilities. As a result, a major role of this Office is to monitor these entities in order to provide some accountability to the House of Assembly. Section 14 of the *Auditor General Act* requires the auditor of an agency of the Crown or a Crown controlled corporation to deliver to the Auditor General, after completion of the audit, a copy of the auditor's report, audited financial statements and recommendations to management. These financial statements and management letters along with our Office's audits of Crown agencies provide the basis for our monitoring of all Crown agencies.

As at 31 March 2002 there were approximately 154 (2001 - 151) agencies of the Crown in the Province. Of these, 87 (2001 - 85) were required to prepare annual financial statements, while the remaining 67 (2001 - 66) were considered non-financial and did not prepare financial statements. Any expenditures related to the operation of these 67 non-financial entities are included with those of the Government department responsible for the entity and are audited annually as part of our audit of the public accounts of the Province.

Observations

Compliance with Section 14

Information contained in the audited financial statements and management letters of Crown agencies is maintained in our computerized system and provides the basis for our monitoring of all Crown agencies.

Of the 87 entities required to prepare annual financial statements, 32 (2001 - 31) were audited by our Office while 53 (2001 - 52) were audited by private sector auditors. Contrary to their governing legislation, the remaining 2 entities, the Memorial University Foundation and the Newfoundland and Labrador Occupational Therapy Board have never submitted audited financial statements.

As of 9 December 2002, the required audited financial statements had not been received from the private sector auditors for 4 of the 53 entities and the required management letters had not been received for 5 of the 53 entities. Figure 1 outlines the entities for which the required information was not provided by the private sector auditors.

2.5 Monitoring Agencies of the Crown

Figure 1

Required Information not Provided
As at 9 December 2002

Entity	Audited Financial Statements Provided	Management Letter Provided
District # 10 - Avalon East School Board	No	No
Operation ONLINE Inc.	No	No
Newco IV Corporation	No	No
Workplace Health, Safety and Compensation Commission	No	No
Health Care Corporation St. John's	Yes	No

Furthermore, the majority of audited financial statements and management letters that were received from the private sector auditors were not received on a timely basis. On average, audits are completed and the auditors' reports signed within three months after the year end. However, in most cases the financial statements and related management letters are not sent to our Office until another four months after the audit report date, and often as a result of follow-up by our Office.

Highlights from the Audits of Crown Agencies

As part of our monitoring of Crown agencies, we review audited financial statements and management letters resulting from audits completed by either private sector auditors or by our Office.

1. Highlights from Audited Financial Statements

The following issues were highlighted from our review of audited financial statements:

- 27 of the 85 entities (2001 - 23) reported a total bank indebtedness of $123 million (2001 - $76 million).

- For 3 of the 85 entities the auditors' report contained a qualification as these agencies were not in compliance with generally accepted accounting principles regarding recording and amortizing capital assets.

2. Highlights from Management Letters

Figure 2 outlines the status of management letters, as of 9 December 2002, of the 85 entities which were audited by our Office or private sector auditors.

Figure 2

Status of Management Letters
Years Ended 1 May 2001 to 30 April 2002

Information	Private Sector Auditor	Office of the Auditor General	Total
Management letters which identified issues	26	25	51
Management letters which indicated no issues identified	1	4	5
No Management letters issued	21	2	23
Management letters not finalized	5	1	6
Total	**53**	**32**	**85**

The following points were highlighted from our review of the 51 management letters which identified issues:

- 5 letters identified instances of non-compliance with the *Public Tender Act*;
- 2 letters identified instances of entities borrowing without authority;
- 4 letters identified instances of failure to provide an annual report to the Minister as required by legislation;

2.5 Monitoring Agencies of the Crown

- 15 letters identified instances of weaknesses in controls over capital assets, the most significant of which was a lack of a capital asset ledger;

- 11 letters identified instances of weaknesses in controls over purchasing of goods and services including purchase orders not being used and purchases not being authorized;

- 12 letters identified instances of computer related issues such as the lack of a disaster recovery plan and the lack of controls over access to computerized information; and

- 16 letters identified instances of weaknesses over the collection of accounts receivable.

2.6 Accounts and Loans Receivable in Government

Introduction

In previous reports to the House of Assembly, my Office has indicated that Government needs to significantly improve on its collections of amounts owed to it. Government's financial information indicates that it does not do a good job in collecting amounts owed to it. As a result, a significant portion of these amounts have been written off or are considered doubtful of collection. Figure 1 provides information on amounts owed to Government departments for each of the eleven years to 31 March 2002 along with the amount that Government considers to be uncollectible and amounts written off. These amounts owed include accounts and taxes receivable, as well as loans, advances and mortgages receivable.

Figure 1

Consolidated Revenue Fund
Accounts, Taxes, Loans, Advances and
Mortgages Receivable
Years Ended 31 March
($ Millions)

	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	Total
Total Receivables	534	531	544	552	537	475	462	469	450	515	488	
Less: Amounts Considered to be Uncollectible	239	242	256	279	280	215	212	242	248	273	260	
Net Receivables	295	289	288	273	257	260	250	227	202	242	228	
Accounts Written Off	1	80	14	5	21	70	8	2	13	2	19	235

Source: Consolidated Revenue Fund Financial Statements

As Figure 1 indicates, at 31 March 2002 Government was owed $488 million of which $260 million is considered to be uncollectible. In addition, since 1992, Government has written off a total of $235 million.

Scope and Objective

Each year, we review Government's accounts receivable balance, and identify how much of its receivables has been written off, and how much of its receivables are considered as doubtful of collection.

2.6 Accounts and Loans Receivable in Government

Conclusion

Our review disclosed that Government has written off $235 million owed to it during the past 11 years. In addition, Government was owed $488 million as of 31 March 2002 of which $260 million was considered doubtful of collection. In my opinion, Government does not do a good job of collecting amounts owed to it.

Findings and Recommendation

Figure 2 provides details on the $488 million owed to Government as at 31 March 2002.

Figure 2

Consolidated Revenue Fund
Amounts owed to Government
31 March 2002
($ Millions)

Type of Receivable	Balance	Amount outstanding in excess of one year	Amount considered doubtful of collection
Crown Agencies	(Note 1) 217	28	147
Taxes receivable	154	57	55
Miscellaneous receivables	47	17	10
Social Assistance overpayments	29	26	13
Court fines	21	17	15
Commercial loans	19	19	19
Other	1	1	1
Total	**488**	**165**	**260**

Note 1: Of the $217 million relating to Crown Agencies, $120 million relates to Enterprise Newfoundland and Labrador Corporation, the Fisheries Loan Board of Newfoundland and Labrador and the Farm Development Loan Board.

2.6 Accounts and Loans Receivable in Government

During the last 11 years Government has written off $235 million in accounts receivable owed to it. Details of these amounts written off are presented in Figure 3.

Figure 3

Consolidated Revenue Fund
Accounts and Loans Receivable Written Off
1992 to 2002
($ Millions)

Entity	Amount
Baie Verte Mines Inc.	47.5
Newfoundland Industrial Development Corporation	29.2
Newco Corporations	17.2
Newfoundland Enviroponics Limited	15.2
Integrated Poultry Group of Companies	12.2
Enterprise Newfoundland and Labrador	10.9
Friede Goldman	10.0
Newfoundland Dockyard	8.1
Ocean Harvesters Limited	6.6
SCB Fisheries	6.5
Cape Pine Fisheries Ltd.	6.5
Miscellaneous amounts which are less than $300,000 individually	5.9
Social Assistance Overpayments	4.8
Fisheries Loan Board of Newfoundland	4.4
Court fines	3.9
St. Lawrence Fluorspar Limited	3.9
Fisheries Loans	3.8
Notre Dame Bay Fisheries	3.8

2.6 Accounts and Loans Receivable in Government

Figure 3 (cont.)

Entity	Amount
Universal Group of Companies	3.5
Department of Health	3.3
Harbour Grace Fishing Company Limited	2.4
Oceana Seafood Processors Limited	2.2
St. Clares Mercy Hospital	2.0
Other government departments - accounts written off	1.8
Superior Seafoods Limited	1.6
St. John's Metropolitan Area Board	1.5
Governor's Park Limited	1.4
Great Northern Seafoods Limited	1.4
Petty Harbour Fishermen's Producer's Co-operative Society Limited	1.3
Blue Ocean Products Limited	1.3
Gander Masonic Memorial Complex	1.2
Salvation Army Grace General Hospital	1.0
Reid's Products Limited	0.9
Petty Harbour Fisheries Ltd.	0.9
Belle Isle Seafoods Ltd.	0.8
S. T. Jones and Son Limited	0.8
White's Fisheries Limited	0.8
Department of Natural Resources	0.7
Northeast Coast Sealers Co-op Society Limited	0.6
Island Tile and Slate	0.5
Nordco Limited	0.5
Department of Fisheries	0.5

Figure 3 (cont.)

Entity	Amount
Reg Petten	0.5
Sop's Arm Fisheries (1988) Limited	0.3
Ocean Kist Products (1970) Ltd.	0.3
Department of Works, Services and Transportation	0.3
Trouty Seafoods Limited	0.3
Total	235.0

In addition to the amounts written off totalling $235 million, during the years 1992 to 2002 the Province forgave taxes in the amount of $14 million and granted $23 million in tax remissions.

The presence of appropriate collection procedures is important, not only for purposes of reducing receivable balances, but also for use in developing historical collection information which can be used as a basis for establishing an appropriate allowance for doubtful accounts. The submission of complete and accurate information by departments is essential to the preparation of the Financial Statements of the Province. The lack of adequate collection efforts at departments is a contributing factor in Government's poor performance in collecting amounts owing to it.

I am pleased to note that Treasury Board has taken action on this matter and reviewed the collection procedures in a number of departments and issued direction to ensure that policies and procedures for the collection of accounts receivable are properly documented. In a letter to all deputy ministers dated 19 August 2002 the Secretary of Treasury Board stated: *"At the direction of Treasury Board, the Office of the Comptroller General recently reviewed the collection procedures in a number of departments. Based on this sample review it was reported to the Board, that for many departments, documented collection procedures for their particular programs did not exist or were obsolete. As per TBM 2002-184, the Board directed departments ensure appropriate department specific policies and procedures for the collection of accounts are properly documented for the various programs they administer".*

2.6 Accounts and Loans Receivable in Government

As part of the audit of the Financial Statements of the Province for the year ended 31 March 2002, we reviewed the submissions made by the various departments to the Government Accounting Division of Treasury Board Secretariat for inclusion in the statements. Our review indicated that many of the accounts receivable balances included in submissions had been outstanding for lengthy periods of time, in many cases in excess of one year. We noted that collection efforts in many of these cases were inadequate and that related allowances for doubtful accounts were either not provided, considered as insufficient, or could not be adequately supported.

Recommendation

Government should be more diligent in collecting amounts owed to it.

Treasury Board Secretariat's Response

I agree there should be improved diligence by departments in collecting their accounts and loans receivable. The departments are responsible for the timely collection and management of their accounts.

As you have indicated, collection procedures were reviewed in a number of departments and they have been directed to ensure their colleciton policies and procedures are documented. The Treasury Board Secretariat continues to be active in encouraging improvements in collections and related activities of the departments through analysis and feedback with respect to write-off requests, routine interaction with departments and provision of advice when requested. In accordance with recent amdendments to The Financial Administration Act, *updated/revised Guidelines for writing off accounts have been issued to departments which should facilitate more efficient write off of appropriate accounts.*

The government-wide Oracle accounts receivable module has been implemented in all departments. In addition, the Department of Finance in consultation with the Comptroller General's Office has commenced developing plans for a Central Provincial Collector function, as directed by the Treasury Board. This Central Collector would provide assistance, training, etc. to departments in their collection efforts.

2.7 Monitoring School Boards

Introduction

In 1996 the school system in the Province was reorganized with the dissolution of 27 church run school boards and the creation of 10 new English language school boards and one French language school board. The 27 school boards continued to exist and administer the schools within their jurisdiction until their dissolution on 31 December 1996. Prior to the dissolution of the 27 school boards, there were approximately 445 schools in the Province with a total enrolment of 110,450 students. As at 30 September 2001, there were 326 schools with a student enrolment of 86,898. The number of schools and student enrolment have declined by 27% and 21% respectively, in the past six years.

Our review of school boards in 2002 included an assessment and comparison of the financial position and operating results of each of the 11 boards.

Observations

Financial Position

The 11 school boards had accumulated deficits totalling $100.971 million for the year ended 30 June 2002. This is comprised of $99.071million in accrued severance pay and leave and a net accumulated operating deficit of $1.900 million. A summary of these surpluses and deficits is provided in Figure 1.

Figure 1

Department of Education
School Boards
Accumulated Surplus (Deficit)
For the Years Ended 30 June
($ 000's)

District	2002			2001		
	Total	Leave/ Severance	Operating	Total	Leave/ Severance	Operating
1	$ (6,530)	$ (5,491)	$ (1,039)	$ (6,492)	$ (5,543)	$ (949)
2	(4,827)	(4,629)	(198)	(4,583)	(4,394)	(189)
3	(10,084)	(9,250)	(834)	(9,578)	(8,945)	(633)
4	(7,308)	(7,398)	90	(7,177)	(7,238)	61
5	(10,209)	(10,745)	536	(9,825)	(10,714)	889
6	(10,190)	(10,491)	301	(9,500)	(10,144)	644
7	(7,233)	(5,924)	(1,309)	(6,995)	(5,797)	(1,198)
8	(4,919)	(4,981)	62	(4,890)	(4,725)	(165)
9	(11,188)	(11,419)	231	(11,609)	(11,292)	(317)
10*	(28,395)	(28,606)	211	(28,395)	(28,606)	211
11	(88)	(137)	49	(179)	(178)	(1)
Total	**$ (100,971)**	**$ (99,071)**	**$ (1,900)**	**$ (99,223)**	**$ (97,576)**	**$ (1,647)**

Source: 2001-02 audited financial statements.
* 2000-01 audited financial statements for District #10.

Operating Results

During 2001-02, 6 of the 10 boards that had audits completed incurred operating deficits ranging from $9,000 for District 2 to $353,000 for District 5.

Using 1995-96 as the base year which was the last full year that the former 27 school boards operated, school board provincial revenues have declined by $6.3 million, including $8.7 million in operating grants and $3.3 million in other revenues, offset by a $5.7 million increase in teaching services grants. The total revenue per pupil increased by 25% from $4,796 in 1995-96 to $5,980 in 2001-02.

2.7 Monitoring School Boards

Using 1995-96 again as the base year which was the last full year that the former 27 school boards operated, school board expenditures declined by $4.4 million, comprised of $4.3 million in administration, and $2.5 million in other expenditures, offset by an increase of $2.4 million in instructional. Expenditure on instruction per pupil increased by 28% from $3,841 in 1995-96 to $4,909 in 2001-02. Figure 2 outlines the revenue and expenditures of the school boards for the year immediately before reorganization, the transition year and for the five years after reorganization.

Figure 2

Department of Education
School Boards
Comparison of Financial Operations
For the Years Ended 30 June
($ 000's)

	Former Boards	Transition	Current Boards				
Financial Item	1996	1997	1998	1999	2000	2001	2002
Revenue							
Provincial grants							
Teachers	$397,795	$ 376,178	$378,179	$380,314	$384,611	$392,173	$403,531
Regular operating	84,583	77,789	74,575	73,898	74,248	75,579	75,820
Pupil transportation	30,264	29,345	27,666	26,862	26,101	27,077	27,262
Other Provincial grants	4,073	4,590	4,691	8,412	4,800	4,590	3,794
Total Provincial grants	516,715	487,902	485,111	489,486	489,760	499,419	510,407
Federal grants	4,649	4,826	5,090	4,716	4,863	4,418	4,217
Ancillary services	1,811	1,330	985	1,032	929	574	431
Miscellaneous revenue	6,536	5,441	5,608	4,912	4,348	4,481	4,634
Total revenue	529,711	499,499	496,794	500,146	499,900	508,892	519,689
Expenditure							
Administration	18,730	15,792	14,573	13,281	13,519	13,220	14,479
Instructional	424,213	399,536	414,609	405,420	409,511	415,202	426,605
Operations and maintenance	48,391	48,549	48,719	50,655	50,212	49,429	50,295
Pupil transportation	29,270	30,060	28,331	28,009	26,958	27,847	27,866
Ancillary services	490	579	490	425	681	643	497
Miscellaneous	615	299	167	1,378	924	272	293
Debt repayment	3,132	2,058	175	343	400	486	395
Total expenditure	524,841	496,873	507,064	499,511	502,205	507,099	520,430
Excess of revenue over expenditure (Expenditure over revenue)	4,870	2,626	(10,270)	635	(2,305)	1,793	(741)
Transfer to capital	(3,857)	(4,991)	(3,750)	(4,079)	(4,996)	(2,260)	(1,804)
Increase (decrease) in equity	$ 1,013	$ (2,365)	$(14,020)	$ (3,444)	$ (7,301)	$ (467)	$(2,545)

Source: 2001-02 audited financial statements, except 2000-01 audited statements for District #10.

2.7 Monitoring School Boards

Compliance with Legislation

During 2001-02, 6 of the 10 boards that had audits completed, incurred operating deficits. There was no approval given by the Minister to these 6 boards as required by the *Schools Act, 1997*. As a result, these boards did not comply with the *Schools Act, 1997*.

In addition, the *Schools Act, 1997* requires each school board to submit its annual budget to the Minister at a date determined by the Minister. As of the date of our review in November 2002, the Department had received 7 of the required 2002-03 budgets from the 11 school boards; 1 was received prior to the required date of 30 September 2002.

Department's Response

Operating Results and Financial Position

As you are aware the issue of school boards having to report a significant operating deficit due to the reporting of the accrued severance pay for teachers in order to comply with accounting principles and directives from the Department of Education and the Comptroller General's office was discussed at considerable length during a recent meeting of the Public Accounts Committee. Except for this issue, we concur with your observations on the operating results and financial position of school boards as at June 30, 2002.

It should be noted that the Department continues to work with those boards reporting an accumulated operating deficit.

Compliance with Legislation

We concur with this observation. This issue is an ongoing concern for the Department. It is our intention to continue to closely monitor the situation to ensure that budget submissions, etc. are received and administered in compliance with governing legislation.

2.8 Contaminated Sites

Introduction

The Department of Environment is responsible for protecting, conserving and enhancing the Province's environment including controlling and managing substances and activities that may pollute the environment. A key function of controlling and managing pollution is the management of contaminated sites which is the responsibility of the Waste Management Section of the Department's Pollution Prevention Division. A contaminated site is defined by the Canadian Council of Ministers of the Environment as a location at which soils, sediments, wastes, groundwater, and surface water are contaminated by substances that are above the benchmark criteria, as determined through scientific studies, and/or pose a threat to human health or the environment.

As outlined in Figure 1, the Department of Environment is responsible for the administration of provisions of the *Environment Act*, the *Environmental Assessment Act*, the *Waste Material Disposal Act* and the *Storage and Handling of Gasoline and Associated Products Regulations*. Although legislative responsibility for these *Acts* and *Regulations* remain with the Department of Environment, for administration purposes, the Department of Government Services and Lands has entered into an agreement with the Department of Environment to act as the Department's agent in an inspection and investigative capacity for some functions relating to these *Acts* and *Regulations*. In addition, the *Mining Act*, administered by the Department of Mines and Energy, covers the operations of mines and mills in the Province.

Figure 1

Legislation

Legislation/Regulation	Purpose	Responsible Department
Environment Act (Note 1)	Prohibits the pollution of air, water and soil.	Environment
Environmental Assessment Act (Note 1)	Requires environmental assessments to determine the environmental impact of an undertaking.	Environment
Waste Materials Disposal Act (Note 1)	Ensures there is adequate management of waste material disposal sites and that proper procedures are followed for the disposal of waste material.	Environment
Storage and Handling of Gasoline and Associated Products Regulations	Regulates the storage and handling of gasoline and associated products.	Environment
Mining Act	Provides provisions for planning, developing, operating and rehabilitating and closing mining operations.	Mines and Energy

Note 1: In May 2002, these Acts were replaced by the *Environmental Protection Act*

2.8 Contaminated Sites

Scope and Objectives

The objective of the review was to determine whether contaminated sites are adequately controlled and managed. In particular, we wanted to determine:

- whether there is a central inventory of all contaminated sites to facilitate the periodic reporting of the nature and extent of contaminated sites in the Province, the progress of remediation efforts, and estimated future remediation costs to be incurred by Government; and
- whether adequate resources have been allocated for the assessment and remediation of Government's contaminated sites based on priority.

Conclusions

There is no central inventory for contaminated sites that are the responsibility of the Province or those that are the responsibility of private owners. The lack of a central inventory makes it more difficult for Government to determine the nature and extent of contaminated sites in the Province, the extent of progress of remediation efforts, and estimated future remediation costs to be incurred by Government.

As of the date of our audit, Government had identified future remediation costs of $37.4 million; however, with the exception of the former Hope Brook Gold Mine property, this estimate does not include any amount that may be required to rehabilitate an estimated 10 other sites which are anticipated to have remediation costs but for which no formal site assessments have been performed. In addition, Government officials could not provide estimates for the remediation of the former U.S. Military bases located at West Bay and Jerry's Nose, or for fuel storage tanks and various Government-owned buildings throughout the Province.

Responsibility for contaminated sites is spread among various departments and therefore, there is no co-ordinated budget submission for the assessment and remediation of contaminated sites. Each department determines which contaminated sites it is responsible for and assesses the priority of funding to manage these sites against funding requirements for all other programs within its mandate. As a result, it is more difficult for government to ensure consistency in establishing and ranking priorities for the assessment and remediation of contaminated sites.

2.8 Contaminated Sites

Findings

Central Inventory of Contaminated Sites

Government does not maintain a central inventory of contaminated sites. This inventory should include information on site location, property owner, the level and detail of contamination, and for Government's contaminated sites, the inventory should also include remediation costs to date, and estimated future remediation costs. Such information would be beneficial for Government for a number of reasons including the following:

- As a land owner, Government should ensure that all of its contaminated sites, regardless of which Department is responsible for the site, are centrally listed to ensure that the sites posing the greatest risk to public health, safety and environment are among the first to be remediated.

- A central inventory would provide Government with the estimated costs associated with remediating contaminated sites that are the responsibility of Government and that will likely constitute a future expenditure of the Province.

- Contamination of Government-owned land may inhibit any Government plan to transfer or sell land and related operations to third parties. Therefore, information on contaminated land is essential for Government to assess the implications on the transfer or sale.

- A central inventory of privately owned contaminated sites would provide a means for Government to monitor the progress of site remediation by these property owners. A central inventory of contaminated sites that are privately owned would indicate the number of sites, and the nature and extent of contamination. Although remediation costs are the responsibility of the owners or occupants of these properties, provisions under various environmental legislation require these property owners to remediate the sites to the satisfaction of the Minister. If the Minister is not satisfied with the progress of remediation, Government can incur remediation costs and collect these costs from the property owner.

During our review, we contacted officials of the various departments that would be responsible for or involved with contaminated sites including the Department of Environment, Department of Government Services and Lands, Department of Mines and Energy, Department of Health and Community Services, Department of Education, Department of

Municipal and Provincial Affairs, Department of Works, Services and Transportation, Department of Forest Resources and Agrifoods, and the Department of Fisheries and Aquaculture.

We requested each department to provide us with a listing of contaminated sites. The results of these requests were as follows:

- The Department of Health and Community Services, Department of Education, Department of Municipal and Provincial Affairs, Department of Forest Resources and Agrifoods, and the Department of Fisheries and Aquaculture indicated that they were unaware of any significant contaminated sites that were the responsibilities of their respective Departments.

- The Department of Works, Services and Transportation indicated that it is in the process of removing fuel tanks and completing assessments and remediation of Government-owned buildings at various locations within the province.

- Officials of the Department of Mines and Energy indicated that the Department has compiled a database of 101 abandoned exploration and mining properties to date. Many of these are small pre-confederation mine and exploration sites. In addition to the former Hope Brook Gold Mine Property, which is anticipated to cost an estimated $20.3 million to rehabilitate, Departmental officials are of the opinion that, based on site inspections and research, approximately 10 properties are anticipated to incur environmental remediation costs. The initial work carried out at these 10 sites has focused on eliminating public safety hazards, such as surface openings, and other rehabilitative measures. Officials indicated that this work will continue at all sites in the database. Further work, such as an environmental site assessment, may be required and this will be coordinated with the Department of Environment. As no formal site assessments have been completed for these 10 sites, Government has not determined the extent of remediation efforts or costs to rehabilitate these 10 sites.

- The Department of Government Services and Lands indicated that it acts as the agent for the Department of Environment in an inspection and investigative capacity and informs property owners of the remediation standards which must be achieved and that all planning and costs are the responsibility of the property owner. Officials at the Department of Government Services and Lands informed us that they are still using a paper filing system to document any privately owned contaminated sites that they are aware of and thus, could not provide us with a listing of the sites as the compilation of such information would be an onerous task and would result in the reduction of the Department's inspection and investigative capability.

- The Department of Environment indicated that each property owner has responsibility for their own property and that private property owners are not required to report any contamination to Government unless it is as a result of a hydrocarbon spill. Although the Department indicated that management of information on known contaminated sites can best be managed using a data base, the Department only has paper records and to develop a central inventory of these sites would be extremely onerous. The Department did provide us with some information on significant contaminated sites for which it has direct responsibility which is presented in Figure 2.

In summary, there is no central inventory for either contaminated sites that are the responsibility of the Province or those that are the responsibility of private owners. As a result, there is no means of consolidating and reporting this information on a periodic basis. Periodic reporting of information on the Province's contaminated sites including the nature and extent of these sites, estimated costs for Government's contaminated sites, remediation plans and progress to date, and the implications of deferring action, would provide necessary and useful information.

Estimated Remediation Costs of Contaminated Sites

Due to a lack of consolidated information on contaminated sites, in order to determine an estimate of the costs of significant contaminated sites that are the responsibility of Government, we used the information provided to us by the Department of Environment and the Department of Mines and Energy, and reviewed all departmental expenditures and budgets for the four years ended 31 March 1999 to 31 March 2002, departmental budget for the most recent year ending 31 March 2003, and the most recently available audited financial statements for all Government organizations.

The results of our review are presented in Figure 2. This Figure indicates that, in addition to the removal of PCB's and old fuel storage tanks located throughout the Province, the Government has determined that there are a number of significant contaminated sites within the Province. The costs to remediate these sites and remove the PCB's and fuel tanks is estimated by Government to be $48.1 million, with approximately $12.1 million of these costs incurred at 31 March 2002. This estimate does not include any amount that may be required to rehabilitate the estimated 10 former

2.8 Contaminated Sites

abandoned mining properties identified by Government for which no formal site assessments have been performed. In addition, Government officials could not provide a firm estimate of the total costs required for the remediation of the former U.S. Military bases located at West Bay and Jerry's Nose. As well, Government officials could not provide a firm estimate of the remediation costs for fuel storage tanks and Government-owned buildings throughout the Province since no formal assessments have been conducted.

Figure 2

Government's Contaminated Sites
Estimated Remediation Costs
31 March 2002
($ Millions)

Entity/Department	Estimated Total Cost	Accumulated Costs Incurred to 31 March 2002	Estimated Future Costs
Newfoundland and Labrador Housing			
- Harmon Air Base	12.6	2.6	10.0
- Octagon Pond and Surrounding Areas	6.4	0.4	6.0
- Buckmaster's Circle	1.0	0.3	0.7
Environment			
- Hopedale/Northwest Point	2.4	0.4	2.0
- West Bay and Jerry's Nose	Unknown	0.4	Unknown
- Removal of PCB's in various locations	1.2	0.7	0.5
Mines and Energy			
- Former Hope Brook Gold Mine	20.3	2.6	17.7
Works, Services & Transportation			
- Fuel storage tanks and various Government-owned buildings	Unknown	1.0	Unknown
Marystown Shipyard	3.5	3.5	-
Newfoundland Hardwoods Limited			
- Removal of stored hazardous materials	0.7	0.2	0.5
Total	**48.1**	**12.1**	**37.4**

Source: Government Departments, Departmental Budgets, Financial Management System and Audited Financial Statements

2.8 Contaminated Sites

Funding Allocation for Contaminated Sites

Each department determines which contaminated sites it is responsible for and assesses the priority of funding to manage these sites, based on criteria including life safety, environmental protection and aesthetics, against funding requirements for all other programs within its mandate. Therefore, the budget which is prepared for submission to the Legislature includes funding for a variety of sites in a number of departments but is not based on a prioritization of all contaminated sites within the Province. As a result, it is more difficult for government to ensure consistency in establishing and ranking priorities for the assessment and remediation of contaminated sites.

Figure 3 provides information on the approved budget and actual expenditures for contaminated sites for the last two fiscal years ended 31 March 2001 and 31 March 2002, the budget for the year ended 31 March 2003, and estimated future costs.

Figure 3

Budget and Actual Expenditures
31 March
($000's)

Entity/ Department	2001			2002			2003	Estimated Future Costs, including 2003 Budget
	Budget	Actual	Variance	Budget	Actual	Variance	Budget	
NLHC								
- Harmon Air Base	-	641	641	-	-	-	-	10,000
- Octagon Pond	-	35	35	-	-	-	-	6,000
- Buckmaster's Circle	-	169	169	-	-	-	-	700
Environment								
-Hopedale/Northwest Point	-	1	1	230	265	35	-	2,000
-West Bay & Jerry's Nose	300	22	(278)	125	235	110	258	Unknown
-Removal of PCBs	400	358	(42)	65	81	16	135	500
- Block funding	100	15	(85)	380	34	(346)	225	-
Mines & Energy								
-Hope Brook Gold	4,500	827	(3,673)	7,500	1,400	(6,100)	10,000	17,700
WST -Fuel Tanks and various Government-owned buildings	308	276	(32)	700	718	18	500	Unknown
Marystown Shipyard	-	-	-	3,600	3,500	(100)	-	-
Newfoundland Hardwoods	-	3	3	-	1	1	-	500
Total	**5,608**	**2,347**	**(3,261)**	**12,600**	**6,234**	**(6,366)**	**11,118**	**37,400**

Source: Government Departments, Departmental Budgets, Financial Management System and Audited Financial Statements

2.8 Contaminated Sites

A review of Figure 3 indicates that for the years ended 31 March 2001 and 31 March 2002, although remediation funding totalling $12 million was approved for the Department of Mines and Energy for the Hope Brook Site, only $2.2 million was spent because there were unforseen delays in the process of hiring a Project Manager to oversee the management of the rehabilitation work on behalf of the Province. Therefore, for these two years Government did not make the progress on remediation of this former mine site that it had planned.

In addition, of the $11.1 million approved budget for the year ended 31 March 2003, $10.0 million relates to the Hope Brook site of which at 30 November 2002 $8.9 million has been spent.

Government will have to provide significant funding in the future to remediate contaminated sites. As indicated in Figure 3, Government anticipates expenditures of $37.4 million in the foreseeable future to remediate sites which have already been identified as contaminated.

Recommendation

Government should establish a central inventory for contaminated sites which would facilitate the identification of future remediation costs.

Department's Response

The Department supports the establishment of a registry.

However, this has not proceeded due to resource constraints. Once a database is established, it will be relatively easy to enter new sites and new information. However, the review and collating of paper files to update the registry with older information will be very time consuming.

It has been recommended that budgeting would be easier if every contaminated site were listed and its cleanup costs and health and environment impacts known. The Department of Environment agrees with this. However, the difficulty is in getting to that point. Assessment costs can in some cases approach 50% of the total cost including cleanup. Consequently, Government, in order to be fully informed, could spend a lot of funds on assessment, sometimes on sites that in the end require no cleanup. The result would be many years of large expenditures with no environmental or health improvements.

Rather, the Department of Environment officials prioritize based on available knowledge and experience and proceed with assessment on those sites determined to be of most concern. As a result, prioritizing may not be ideal but real cleanup progress is made much sooner.

2.8 Contaminated Sites

I would also note that because of the nature of contaminated sites, work does not always proceed in a defined manner. Problems and the extent of contamination is never fully understood even with extensive testing. Consequently, Department of Environment staff always leave a contingency to deal with the unexpected. This is more responsible than being found in a position of having an immediate issue and no funding to address it. As a result, sometimes at the end of the year all the allocated funds may not have been spent. Since the end of the year is winter when outside work is impossible or very expensive, and site cleanup does not lend itself to doing little bits of work, this funding sometimes cannot be used for the intended purpose.

In summary, the Department of Environment agrees that management of contaminated sites could be improved; however, this is a function of available resources. However we feel that the funding provided is being used prudently, responsibly and to the best benefit of the province.

2.8 Contaminated Sites

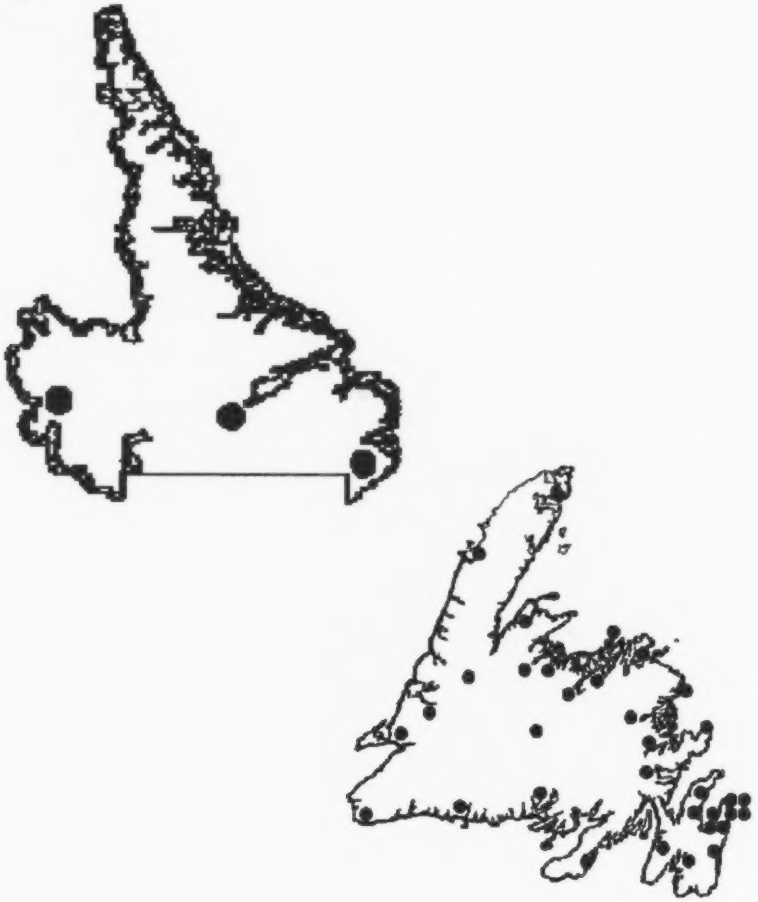
2.9 Multi-Materials Stewardship Board

Introduction

On 15 January 1997, Government implemented a Beverage Container Control Program in the Province. Under this Program, the consumer pays a deposit on specified beverage containers. Upon returning a beverage container to one of the 37 established depots in the Province, consumers receive a refund of a portion of the deposit. These containers are then transported from the depots to centres for processing. Figure 1 provides information on the locations of the depots throughout the Province.

Figure 1

Depot locations



Source: Multi-Materials Stewardship Board

2.9 Multi-Materials Stewardship Board

In addition to paying refunds to consumers, deposits, along with proceeds from the sale of collected containers, are used to support the operating costs of the Beverage Container Control Program. All excess monies are to be paid into the Newfoundland and Labrador Waste Management Trust Fund as directed by Government. This Trust Fund was established for the purpose of providing funds for Government approved waste management initiatives and is administered under the *Waste Management Act*.

To manage the Beverage Container Control Program and the Waste Management Trust Fund, Government established the Multi-Materials Stewardship Board on 18 June 1996. The Board's mandate is to support and promote the protection, enhancement and wise use of the environment through waste management programs. The Board of Directors is made up of not fewer than seven voting members representing consumers, beverage distributors, three government departments and two or more from the public at large. On an annual basis, the Board is required to submit to the Minister of Environment both an operating budget for approval and a report on Board activities and results of financial operations for the previous year.

In 1997, the Board entered into an agreement with Newfoundland Beverage Recovery Inc. (NewBRI) to operate, maintain and manage the Beverage Container Control Program on behalf of the Board. NewBRI is a not-for-profit corporation established by the beverage industry for the purpose of carrying out the responsibilities of the Agreement. The Agreement covered the period from 8 November 1996, the date NewBRI had effectively been operating the Program, until 15 January 2002. Effective January 2002, the day to day operation of the Program was assumed by the Board from NewBRI Inc.

Figure 2 shows the financial information from the operation of the Beverage Container Control Program that is used to fund all of the activities of the Multi-Materials Stewardship Board and the Newfoundland and Labrador Waste Management Trust Fund.

2.9 Multi-Materials Stewardship Board

Figure 2

Beverage Container Control Program
Financial Information
Years Ended 31 March
$ Millions

	1998	1999	2000	2001	2002
Total Revenue	**11.4**	**11.8**	**12.0**	**12.6**	**13.9**
Cost of sales					
Deposits refunded	2.5	2.4	2.5	2.6	5.0
Depot handling fees	2.2	2.2	2.4	2.5	3.6
Processing fees	1.9	1.6	1.6	1.3	1.9
Freight	1.0	0.8	0.8	0.7	1.0
Other	-	0.2	0.2	0.2	0.2
	7.6	**7.2**	**7.5**	**7.3**	**11.7**
Gross Profit	**3.8**	**4.6**	**4.5**	**5.3**	**2.2**
Administrative expenses	0.4	0.7	0.9	1.3	0.8
Net earnings	**3.4**	**3.9**	**3.6**	**4.0**	**1.4**
Surplus, beginning of the year	0.3	3.4	7.0	7.3	7.0
Allocation to Trust Fund	-	-	3.0	4.0	0.0
Payments to MMSB	0.3	0.3	0.3	0.3	0.8
Surplus, end of the year	**3.4**	**7.0**	**7.3**	**7.0**	**7.6**

Source: Multi Materials Stewardship Board, NewBRI Inc., and the Newfoundland and Labrador Waste Management Trust Fund audited financial statements

2.9 Multi-Materials Stewardship Board

Scope and Objectives

We completed our review of the Multi-Materials Stewardship Board and the Newfoundland and Labrador Waste Management Trust Fund in November 2002. The objectives of our review were to:

- review the Board's progress in achieving established target recovery rates for beverage containers in the Province;
- review recycling contracts awarded by the Board to determine whether the Board is complying with the *Public Tender Act*; and
- determine whether monies disbursed from the Trust Fund were in accordance with established Program guidelines and legislation.

Conclusions

Multi-Materials Stewardship Board

In 1996, Government established target recovery rates for beverage containers sold at 50% for 1997, 60% for 1998, 70% for 1999, and 80% for 2000. During the early years of the Beverage Container Control Program, the rate of container returns stagnated at less than 50%. Despite initiatives by Government, including increased marketing and increased deposit refund rates to consumers, the actual recovery rate for beverage containers for 2002 of 61% is still well below the targeted recovery rate of 80%.

In delivering the Beverage Container Control Program, the Board has entered into several contracts. The Board did not always comply with the *Public Tender Act* in awarding these contracts.

In 2002, the Board developed a Used Tire Recycling Program. The initial proposal call for this Program indicated that prior to the award of the contract in February 2002, the Board did not have current legal information related to the successful bidder. The successful bidder later withdrew from the contract on 15 May 2002 citing difficulties in establishing their planned collection system.

In June 2002, a second proposal call was issued. At the tender closing date, three proposals had been received. Although four other potential bidders requested an extension of at least two weeks, Board officials indicated that the requests for extensions were not approved by the Minister of Environment. Of the three proposals that had been received, only one included all the required information and was further assessed by an evaluation committee of the Board. This Committee advised the Minister not to accept this proposal and further recommended that the tender should be reissued. In August 2002, the Deputy Minister of Environment informed the Board of the Department's decision to award the contract to the only bidder. Board officials indicate that although they were informed that the decision had been approved by the Minister and Cabinet, they were not provided with any explanation as to how the Board's concerns with the proposal had been addressed.

Newfoundland and Labrador Waste Management Trust Fund

Although the Board and the Department have established guidelines to determine eligibility for project funding, we found instances where projects were approved directly by the Minister without any assessment being completed by the Board to determine whether the project met these project guidelines.

Project sponsors are not always complying with contribution agreements in that they are not always providing adequate documentation to support expenditures, other sources of funding, and in-kind support.

Findings and Recommendations

Multi- Materials Stewardship Board

Beverage Container Recovery Rates

In implementing the Beverage Container Control Program, Government established target recovery rates for beverage containers sold. Information on the established target recovery rates, actual recovery rates, and the volume of containers placed in service and returned is outlined in Figure 3. The Figure also shows the recovery rates for the Province of Nova Scotia.

As Figure 3 shows, during the early years of the Program, the rate of container returns stagnated at less than 50%. In an attempt to increase the recovery rates, the Board increased the amounts spent on marketing and promotion from $359,000 in 2000 to $695,000 in 2001. In addition, in February 2001, the deposit refund rate to consumers increased from 3 cents to 5 cents. Despite these initiatives, the actual recovery rate for beverage containers for 2002 of 61% is still well below the targeted recovery rate of 80% established by Government.

2.9 Multi-Materials Stewardship Board

Figure 3

Multi-Materials Stewardship Board
Beverage Container Recovery System
Summary of Recovery Rates
March 31

	1998	1999	2000	2001	2002
Containers placed in service	165,599,994	176,296,028	184,217,639	179,898,820	177,206,480
Containers returned	87,543,862	85,111,887	86,663,073	84,358,271	108,159,975
Actual recovery rate	**53%**	**48%**	**47%**	**47%**	**61%**
Target recovery rate	**60%**	**70%**	**80%**	**80%**	**80%**
Actual recovery rate - Nova Scotia	**76%**	**77%**	**79%**	**83%**	**83%**

Source: Multi-Materials Stewardship Board internal records, audited financial statements, mid-term report and RRFB Nova Scotia

Recycling Contracts

To date, the Board has developed two recycling programs - the Beverage Container Control Program in 1997, and the Used Tire Recycling Program in 2002. The Board has entered into contracts to deliver these programs. Findings related to our review of contracts for these programs are outlined below.

1. Beverage Container Control Program

Under this Program, there are four contracted services areas: depots, transportation, processing and information systems. Figure 4 provides information on the four contracts.

2.9 Multi-Materials Stewardship Board

Figure 4

Beverage Container Control Program
Contract Information

Contract	Duration	Publicly Tendered	Annual Contract Cost 31 March 2002
Depots operators	15 January 1997 to 31 March 1998 1 April 1998 to 31 March 1999 1 April 1999 to 31 March 2000 1 April 2000 to 31March 2005	Yes (Note 1) Yes No No	$3.6 million
Transportation	15 January 1997 to 14 January 2002 15 January 2002 to 30 April 2002 1 May 2002 to 14 January 2003 15 January 2003 to 14 January 2004	Yes No Yes Yes	$1.0 million
Processing	15 January 1997 to 14 January 2001 15 January 2001 to 14 January 2002 15 January 2002 to 14 January 2003 15 January 2003 to 14 January 2004	No (Note 2) No No No (Note 3)	$1.9 million
Information systems	One time purchase of software license	No	$89,900

Note 1 - 12 of the 37 operators were in existence and were grandfathered in
Note 2 - Government directed NewBRI to enter into a four year contract
Note 3 - Letter on file from Minister of Environment directing no tender to be called

Our review of these contracted services indicated the following:

Depot Operators

Under the Beverage Container Control Program, containers can be returned to 37 depots throughout the Province. In 1997, an agreement between the Board and NewBRI Inc. directed NewBRI Inc. to award the contract to 12 depot operators already established and operating in the Province at the time Government introduced the Beverage Container Control Program. The remaining 25 depot operators were selected on the basis of proposals received after the holding of public meetings throughout the Province by Board representatives.

Contracts awarded were for an initial one year period to 31 March 1998 and provided for a one year extension to 31 March 1999 which was exercised by NewBRI. The contracts continued to be extended by NewBRI until 31 March 2005 without any request for public tenders.

Transportation

Under the Beverage Container Control Program, returned containers are transported from the depots to the processing centres. Board officials indicated that public calls for transportation services were held by NewBRI Inc. for the provision of these services for a five year period to 14 January 2002. Board officials also indicated that the contract was awarded to the lowest bidder.

The Board assumed responsibility for the transportation contract on 15 January 2002. For the period 15 January 2002 to 30 April 2002, the contract was continued with the original contractor without tender. In April 2002, the contract was publicly tendered and a contract was awarded for the period 1 May 2002 to 14 January 2003 with a provision for three one-year extensions. The contract was awarded to the lowest bidder.

Processing

Containers returned under the Beverage Container Control Program are processed by an outside processor under a contract. In 1997, an agreement between the Board and NewBRI Inc. directed NewBRI Inc. to award the contract to a specific outside processor for a four year term ending 14 January 2001. This processor had been the only company processing beverage containers in the Province at the time Government introduced the Beverage Container Control Program. The Agreement also indicated that after the initial four year contract, NewBRI Inc. should base their selection of outside contractors on *"public solicitation"*. Our review of this contract indicated the following issues:

- In January 2000, a consultant engaged to review the effectiveness of the Beverage Container Control Program reported that, "*... processing costs in Newfoundland and Labrador are above those experienced in other Provinces,*" and "*... that it may be possible to lower processing costs to the system at the end of the existing contract,*" and "*... we recommend that upon completion of the existing processing contract the system operators consider tendering the processing services to solicit competitive bids.*"

- At a Board meeting in September 2000, it was noted that the Minister had directed NewBRI to extend the processing contract for an extra year from 15 January 2001 to 14 January 2002. Contrary to the *Public Tender Act*, this extension was not publicly tendered.

- The Board assumed responsibility for the processing contract on 15 January 2002. In November 2000, the Board advised the Minister that, due to the high cost of processing, it was the Board's intention to call public tenders for the 2002-03 year. However, in October 2001 the Minister directed that the contract be extended for a further year to 14 January 2003. Contrary to the *Public Tender Act*, this extension was not publicly tendered.

- In January 2002, the Minister directed the Board to take the necessary steps to publicly tender the processing contract before its expiration on 14 January 2003. However, in November 2002, the Minister (assumed portfolio on 4 April 2002) directed that the contract be extended to 14 January 2004. Contrary to the *Public Tender Act*, this extension was not publicly tendered.

- Although there was no requirement in the Agreement to pay additional fees to the processor if targeted beverage container recovery rates were not met, the Board paid the processor an additional $82,000 for the year ended 31 March 2001.

Information Systems

Information on the collection and processing of beverage containers under the Beverage Container Control Program is maintained in an information system. In 1997, NewBRI entered into a contract with a company to provide this service. Contrary to the *Public Tender Act*, this contract was not publicly tendered.

In March 2001, the Board was informed that it would be assuming responsibility in January 2002 for the Program from NewBRI. The Board was concerned with having an information system in place by that time and, therefore, in April 2001 it requested proposals for software and support from suppliers of these services to the Nova Scotia and New Brunswick recycling systems and decided not to call a public tender. The Board reported this transaction to Government as an "urgent requirement" exception under the *Public Tender Act*. In our opinion, given that the Board was informed in March 2001 that responsibilities for this Program would be transferred in January 2002, this requirement was foreseen and should have been publicly tendered.

2.9 Multi-Materials Stewardship Board

2. Used Tire Recycling Program

On 1 April 2002, under the authority of the *Waste Management Act* regulations, the Board started a Used Tire Recycling Program. Under the Act, used tires are no longer permitted to be disposed of in the landfills throughout the Province. All new and used tire suppliers in the Province are required to be registered and to collect a levy of $3 per tire for each tire equal to or less than 43.18 centimetres and $9 per tire for tires more than 43.18 centimetres and less than 63 centimetres. These amounts are levied to cover the cost of collection, storage, transportation, processing and disposal of used tires collected.

In June 2001, the Board completed a public call for proposals for a contractor to carry out collection, transportation and processing activities relating to the Used Tire Recycling Program. On 27 March 2002, the Board signed a contract with the successful bidder. The contractor started operations on 1 April 2002 but withdrew from the contract on 15 May 2002 citing difficulties in establishing their planned collection system. As a result, the Board called a second tender for this work in June 2002, and awarded the contract in August 2002. Our review of these contracts indicated the following.

Initial Proposal Call

Six acceptable proposals were received for the initial proposal call in June 2001. A committee established by the Board evaluated the proposals using a ranking schedule, resulting in three proponents with the highest overall ranking being asked to make an oral presentation to the committee.

Based upon the Committee's overall assessment of the six proposals, the Board recommended to the Minister of Environment that the contract be awarded to Municipal Recyclers Limited (MRL) and its partner Eastern Demolition & Recyclers Limited. Cabinet approved the awarding of this contract in October 2001.

Although the initial proposal call required that all bidders provide current financial information, the financial information accepted by the Committee from the successful bidder related to their prior year. Furthermore, the Board did not conduct a search to identify any legal claims against the company. Information obtained by the Board subsequent to the award of the contract in February 2002 indicated that there were significant legal claims outstanding against the company.

Due to the proposed Government guidelines provided to municipalities in April 2002, the successful bidder could not secure proposed storage sites as outlined in their proposal. The Guidelines provided direction on the outdoor storage of tires. Based on the proposed Guidelines, municipalities decided not to allow the successful bidder to use municipal land fill sites for collection and storage of used tires. Therefore, in May 2002, the successful bidder withdrew from the contract. The Board decided to refund the $75,000 performance deposit to the company.

As a result of the withdrawal of the contractor, the Board re-tendered the contract and also on an interim basis, Government agreed to store used tires at certain Government locations. In addition, the Board entered into a letter of intent with a local contractor to collect and process used tires on an interim basis.

Second Proposal Call

The second public proposal call for the operation of the Used Tire program was issued on 8 June 2002 and closed on 15 July 2002. There were 31 proposal packages provided to applicants with 3 proposals received by the deadline. Between the call and close of the public proposal, the Board received letters from 4 potential bidders requesting an extension of at least two weeks. Board officials indicated that the requests were discussed with the Minister of Environment who decided not to extend the closing date.

Two of the three proposals received by the deadline did not include all of the required information of the proposal call and were therefore rejected. The remaining proposal was reviewed by another committee established by the Board. The evaluation committee completed its review by 30 July 2002 and recommended that the proposal not be accepted. Some of the committee's concerns included that this was a newly incorporated company with no direct experience in the operation or management of a used tire program, and it relied quite heavily on the integration of staff, facilities and marketing of a group of related companies.

On 5 August 2002, the Chair of the evaluation committee advised the Minister of the committee's concerns related to this proposal. The Minister instructed the committee to meet with the bidder to resolve the issues identified. The committee entered into negotiations with the bidder; however, it was not able to alleviate its concerns. In a letter dated 20 August 2002 the Chair of the evaluation committee advised the Minister that, "*in the interest of ensuring a sustainable, long-term used tire management program, we feel we have no choice but to recommend that the tire collection/processing contract not be awarded to the proponent*".

The Chair of the Board also wrote the Minister outlining that the Board's preferred option was to undertake another proposal call. The Chair also suggested that until a final solution was found, the Board could use the interim arrangements previously negotiated with another local processor or temporarily ship tires outside the Province for full processing. The Board had given a local processor a letter of intent on 31 May 2002 to use its collection and processing services until a permanent processor was ready to take over.

On 26 August 2002, the Deputy Minister of Environment informed the Board that the Department had reviewed the various options and correspondence from the Board and had concluded the appropriate course of action was to award the contract to the only bidder. The contract was signed on 8 November 2002. Board officials indicate that although they were informed that the decision had been approved by the Minister and Cabinet, they were not provided with any explanation as to how the Board's concerns with the proposal had been addressed.

As a result of the contract being awarded, the letter of intent with the local contractor to collect and process used tires on an interim basis was cancelled. This contractor is claiming lost profit from the Board of $600,000. At the time of our review, this situation was being assessed by the Board and the Department of Environment.

Newfoundland and Labrador Waste Management Trust Fund

In November 1996, in conjunction with the establishment of the Beverage Container Control Program, Government established the Waste Management Trust Fund. In addition to paying refunds to consumers, deposits, along with proceeds from the sale of collected containers, are used to support the operating costs of the Program. All excess monies are to be paid into the Waste Management Trust Fund as directed by Government. Since the Trust Fund was established, a total of $7 million in excess monies has been paid into the Fund.

The Trust Fund is to be used for the purpose of community-based environmental initiatives, such as community clean-ups, recycling and environmental education programs. Cabinet established a Committee comprised of the Minister of Environment, the Minister of Municipal and Provincial Affairs, the Minister of Industry, Trade and Rural Development, and the Minister of Tourism, Culture and Recreation, which, in conjunction with the Board, developed the process and guidelines for approving projects to be funded from the Trust Fund.

These guidelines are outlined in the Waste Management Regulations under the *Waste Management Act.* Based on these guidelines, specific criteria and funding allocations are developed by the Board in consultation with the Minister and are used by the Board as the basis for evaluating applications. The Board then makes a final recommendation to the Minister of Environment on whether to approve or reject an application. The Minister, under the authority of section 10(3) of the Waste Management Regulations, makes the final decision on whether to fund an application from the Trust Fund.

Figure 5 provides information on the applications received since the Trust Fund was established in November1996. As this Figure shows, 224 of the 495 applications received were approved and are in various stages of completion.

Figure 5

Newfoundland and Labrador Waste Management Trust Fund
Project Funding Status Report
July 1999 to March 2002

		Round 1		Round 2	
Category	**#**	**Projects**	**Amount**	**Projects**	**Amount**
Recycling Programs	1	15	$ 287,712	(Note 1)	$473,447
Waste Management Programs.	2	17	706,707	34	1,717,558
Education & Promotion.	3	8	292,071	7	250,000
Community Clean Ups	4	95	1,451,271	38	199,976
Government./Board Initiatives	5	-	-	7	459,250
New Technologies	6	1	38,175	-	-
Business Development Initiatives	7	1	20,000	1	125,000
Applications Approved		**137**	**2,795,936**	**87**	**3,225,231**
Applications Deferred/In Progress		**-**	**-**	**23**	**1,738,084**
Applications Rejected		**166**	**6,446,850**	**82**	**4,650,931**
Total Applications Received		**303**	**$9,242,786**	**192**	**$9,614,246**

Source: Multi-Materials Stewardship Board internal records
Note 1 - In round two, this category was used for promotion activity related to matching recycling deposit refunds paid to schools and does not involve the receipt of grant applications.

2.9 Multi-Materials Stewardship Board

Our review of 25 of the 224 files with approved funding of $1.538 million, and 5 rejected files indicated the following:

1. Approval of Applications

Adequate policies and procedures are necessary to ensure that approved applications are those most likely to achieve Program objectives. This would include reviewing applications to ensure eligibility and selection criteria are met and adequately documenting the reasons why applications are approved or rejected.

Our review of the approval process for the 25 files with approved funding disclosed the following:

- One of the 25 projects was originally rejected by the Board but was subsequently approved by the Minister. This application for funding of $50,000 to increase public awareness of ocean pollution was rejected by the Board as the type of expenditure involved was not a priority of the Board. In a letter from the Minister, the Board was asked to reconsider the project for approval. In a subsequent letter to the Minister, the Board confirmed its original decision to reject the application. The Minister subsequently approved the application for funding under the Program. Board staff indicated that no documentation was provided to the Board as to why the project was approved by the Minister. Such information would assist the Board in ensuring the consistent application of Program guidelines.

- Two applications, one for $43,000 for the establishment of a new commercial recycling pick up service and one for $42,500 for the expansion of a similar service, were rejected by the Board because the projects involved the purchase of motor vehicles that are specifically listed as "ineligible project costs" in the Board's assessment criteria. Furthermore, the Board carried out a detailed assessment of the proposal for the establishment of the new service which concluded that the project was not viable on a long-term basis and could have negative impacts on existing recycling depots. The Minister subsequently approved the applications for funding under the Program and provided information to the Board on the rationale for his decision.

2.9 Multi-Materials Stewardship Board

- Two of the projects recommended for funding by the Board were for waste collection and waste site equipment. These projects had projected costs of $369,516 of which the Board recommended funding to a maximum of 50% of the total costs, as outlined in the Program guidelines. The Minister, however, subsequently increased the approved funding to 100% of project costs.

- Funding was provided for the employment of a Special Advisor for Waste Management Policy Initiatives at the Department of Environment. The funding was provided for a two-year period from 6 June 2001 to 5 June 2003 at a projected cost of $132,400. On 2 October 2001, the Minister of Environment directed the Board to fund this position from the Trust Fund. The Board was not asked to assess the project to determine whether it met Program guidelines. Furthermore, Board officials indicated that they did not know the name of the person employed nor were they aware of the duties and responsibilities of the position.

- An application for funding of $120,500 for the construction of a municipal sewage pilot facility was received by the Board in October 2000. The Minister approved the application for funding in December 2000. There was no assessment of this application completed by the Board to determine whether the project met Program guidelines.

- An application for funding of $110,400 for the development of a municipal waste management study was received by the Board in March 2001. The Minister approved the application for funding in May 2001. There was no assessment of this application completed by the Board to determine whether the project met Program guidelines. Board officials indicated that it was determined, subsequent to the Minister's approval, that all expenditures for this project were made prior to the project being approved for funding from the Trust Fund. As this is not in compliance with Program guidelines, this project was funded by the Department of Municipal and Provincial Affairs rather than the Board.

- An application for funding of $125,000 for financing a new plastic recycling business was received by the Board on 22 June 2001. On 19 July 2001, the Board wrote the Minister identifying a number of concerns with the application including the lack of a long-term plan to collect plastics on a Province-wide basis and the applicant's emphasis on the importation of waste materials rather than the long-term Provincial diversion of plastics. The Board also indicated it did not feel the project could be funded under current funding categories. On 20 July 2001, the Minister approved the application. There was no evidence that these concerns were addressed prior to approval of the project by the Minister.

  On 25 July 2001, the Minister wrote the Board to clarify several points including a suggestion for the Board to establish a new category which would qualify the project for funding and to indicate that there was no objection to disbursing 100% of the grant in advance.

- The remaining 16 applications recommended for approval by the Board met established Program criteria and approved funding was determined in accordance with Program guidelines. We also determined that reasons for approving these applications were adequately documented by the Board.

We also examined 5 rejected applications and found that the Board's rationale for rejecting these applications was appropriate in that the proposed projects either did not meet Program guidelines or there was a lack of funding available in that particular category.

2. Compliance with Contribution Agreements

Once a project is approved, a contribution agreement is entered into between the Board and the approved project sponsor. This agreement outlines the terms and conditions of the approved funding, including documentation to support expenditures, other sources of funding, and in-kind support.

(a) Documentation to Support Expenditures

Under the contribution agreement, sponsors are required to provide documentation including invoices, payroll or other information to support that expenditures were made for the approved purpose.

Our review of the 25 files which were approved for funding disclosed that 4 project sponsors did not comply with the contribution agreements as they did not provide adequate documentation to support expenditures. In particular:

- One project sponsor, referred to earlier in this report, who received $125,000 for the financing of a new plastic recycling business, did not provide any support to show how the approved funding was spent. We were advised by Board officials that they will not be pursuing this matter further.

  Although the contribution agreement indicated that the approved grant would be disbursed net of Harmonized Sales Tax (HST), the full $125,000 was disbursed.

- Three projects received funding totalling $147,000 under the educational and promotional activity category. It was difficult to determine whether the documentation provided to support expenditures related directly to the approved project or whether it related to the sponsor's other business activities.

  For example, one of the projects included considerable travel costs. Our review of these claims indicated the reason for travel or the destination were not always included, and did not always include documentation to support the expenditures being claimed. We also noted two instances where the claim was not added correctly resulting in overpayments to the traveller of $10 and $100 respectively. Consequently, the Board overpaid the project sponsor $110. For another project, an invoice for $6,300 was submitted by the applicant as support for the grant and accepted by the Board. Our review indicated that the expenditure was ineligible under the contribution agreement and therefore should not have been accepted by the Board.

In addition to the requirement that project sponsors submit documentation on expenditures as required by the contribution agreements, the Board also visits some project sponsors to assess progress of the project and to determine whether funding provided is being used for eligible purposes. There is no policy for how projects are selected for these visits to identify high risk projects. Our review of the files selected for on-site monitoring provided no indication as to why these projects were selected for review.

Our review indicated that the Board has completed site visits for 48 of the 224 approved projects. Many of these site visits identified significant concerns, ranging from poor record keeping to activities being conducted which were ineligible under Board criteria.

(b) Documentation to Support Other Sources of Funding

The Board has established maximum percentages for funding projects. Any additional project costs are funded by either the sponsor or outside funding agencies. Under the contribution agreement, sponsors are required to provide documentation to confirm other sources of funding for the project.

Our review of the 25 files with approved funding disclosed that 3 project sponsors did not comply with the contribution agreements as they did not provide confirmation to support other sources of funding or the documentation provided was inadequate. In particular:

- One project involved the participation of three municipalities which in total were to contribute 50% of the funding for the project. One of the municipalities did not provide confirmation of funding prior to the Board advancing funds. The confirmation was eventually provided by this municipality.
- One project included the provision of a $10,000 contribution from the Department of Tourism, Culture and Recreation. Adequate confirmation of funding was not received prior to the Board advancing funds, and the $10,000 funding was never received.
- One project included the provision of a total contribution of $9,700 by several businesses. No confirmation of funding was received from the businesses prior to the Board advancing funds, and only $1,300 of the $9,700 funding was received.

(c) Documentation of In-Kind Support

The Board requires in-kind support by sponsor groups for many of the projects being funded. In-kind support includes such things as the provision of unpaid labour by volunteers, supervisory and administrative staff and the use of existing heavy construction equipment. Under the contribution agreement, sponsors are required to provide an interim and final report outlining the type and amount of in-kind support provided in completing the projects.

Our review of the 25 files with approved funding disclosed that the information provided on in-kind support by the project sponsors was very general in nature. For example, instead of providing detailed payroll information, the reports only contained such information as "two staff for two hours per day for five weeks".

Board staff advised us they are concerned with the adequacy of information provided by project sponsors relating to in-kind support, and are developing guidance for project sponsors on information required to document in-kind support.

Other

In January 2002, the Board provided a $200,000 special advance to the processing contractor. There was no requirement in the contract between the Board and the contractor to make this payment. We are concerned that public monies were advanced without the receipt of goods or services.

Recommendations

The Board should:

- *continue efforts to improve the actual beverage container recovery rate;*
- *comply with the* Public Tender Act*; and*
- *ensure project sponsors comply with the provisions of contribution agreements.*

Board's Response

Comparison with Nova Scotia Recovery Rates

While operationally similar, there are factors which significantly affect the achievable recovery rates for both provinces. In particular, the combination of a higher refund level for the first four years of the comparison period, a more mature program, province-wide access to curbside recycling and significantly higher expenditures on public education would result in Nova Scotia enjoying higher recovery rates than Newfoundland and Labrador. While operationally similar, the recovery rates of these two provinces are not comparable due to the aforementioned factors.

It should be noted that as of September, 2002, the recovery rate for the program in this province over the previous 12-month period was 68.75%. Considering that the 5¢ refund has only been in effect for a little over 1½ years, this is a very good recovery rate.

Extension of Depot Operator Contracts without any request for public tenders

When Green Depot operator agreements were nearing expiration, it became apparent that the operators, particularly in the for-profit sector, had invested considerable time, expertise and financial resources into the success of their businesses. It would neither have been feasible, cost effective nor would it have contributed in any way to the efficiency of the system overall for the MMSB to cancel all licences on an annual basis and undertake a public tender process for new operators. The only instances wherein such an action would be acceptable would be when a particular operator is not fulfilling the terms of the agreement or willingly relinquishes a licence. In such cases, public proposal calls are undertaken.

After representation from the Recycling Operators' Association of Newfoundland & Labrador (ROANL), the MMSB agreed that it was difficult to secure financing for their operations based on one-year agreements. As it was in the public's best interest for Green Depots to be able to provide the best possible service to their customers, the Agreements were renewed for a five-year term. There are allowances in the Depot Operator Agreement to cancel licences for noncompliance with the contractual terms.

2.9 Multi-Materials Stewardship Board

Management Information System: "In our opinion, given that the Board was informed in March 2001 that responsibilities for this Program would be transferred in January 2002, this requirement was foreseen and should have been publicly tendered."

As one of seven operators in Canada of a deposit refund system for used beverage containers, the MMSB was aware that there were only two existing management information systems that would meet its needs. The process for the selection of the management information system did follow the general principles of a public proposal call. Proposals were submitted by the two possible suppliers and presentations by each were conducted. After evaluating the two systems, a recommendation was made to the Board for approval followed by a recommendation from the Board to the Minister for final approval. Ministerial approval was obtained for this purchase.

The development time for the preparation of proper specifications for a public tender call would have been prohibitive to achieving the implementation time line for the new system. Other factors considered included the recruitment and training of staff to operate the system; the sourcing, purchasing, installation and training of staff for compatible accounting software; the time required for pretesting before going on line with the new system; as well as the purchase of compatible field hardware. Public tenders were called for the purchase of accounting software and field hardware.

Consequently, on the surface it would appear that a nine month period was adequate to conduct a public tender call for a new management information system. However, in light of the factors noted above, this was not the case.

Used Tire Recycling Program - financial and legal information for the initial proposal call:

Between the Government approval of the award of the contract conveyed to the MMSB on November 7, 2001, and the signing of the contract on March 27, 2002, the Board did obtain adequate information from the contractor to address any concerns with respect to financial viability and legal claims.

2.9 Multi-Materials Stewardship Board

The Board should continue to improve the actual beverage container recovery rate:

Over the past five years, great strides have been made in this area. Going from a 47% recovery rate in 1997 to the present 68.75% recovery rate is a testament to the Board's efforts and commitment to what is regarded as one of the most important mandates of the MMSB.

The Board should comply with the* Public Tender Act*:

The MMSB does adhere to the Public Tender Act. *Consultations with the Government Purchasing Agency are undertaken on a regular basis to ensure that proper protocol is being followed at all times.*

The Board should ensure project sponsors comply with the provisions of contribution agreements:

The Board is cognizant of the need to exercise due diligence in the disbursement of these public funds. Thus, every effort is made on an ongoing basis to ensure that there is compliance with contribution agreements. This effort will continue.

Department's Response

Trust Fund Approvals

The approval of projects under the Waste Management Trust Fund is the responsibility of the Minister of Environment. The Minister and the MMSB have jointly established guidelines and criteria for screening applications to the Fund. This is for guidance only and the actual legislated authority for the Minister is found in Section 10(4) of the Waste Management Regulations. *All approvals by the Minister were done in accordance with the Regulations, taking into account the MMSB guidelines and government's overall waste management objectives.*

Used Tire Contract

The second proposal call for the Used Tire Program yielded only one qualified bidder as defined in the Public Tender Act. *The Evaluation Committee for MMSB had concerns about the proposal and recommended that a contract not be developed with this qualified bidder and a new proposal call be issued. However, the Department reviewed this matter, in consultation with the Government Purchasing Agency, and felt that the issues being raised were not of a magnitude which precluded the development of a contract with the qualified bidder. Subsequent discussions with the contractor clarified issues and a contract was* *successfully developed which addressed the issues raised by the Board and a new program is underway. A recall for proposals would have unnecessarily delayed this important new program.*

Beverage Container Processing Contract

The sole sourcing of this contract (to Nova Recycling) was approved by government when the Beverage Container Program was implemented in 1997. Although there was no time limit on the use of this contractor, the initial contract between Nova and the system operator NewBri was for four years. Recently, consideration has been given to tendering this work but due to uncertainty on how this program will fit into government's overall Waste Management Strategy, the contract has been extended, at the same rates, until January 10, 2004. This way, there will be no disruption in the Beverage Container Program while a final administrative arrangement is being determined for container processing with respect to the Regional Waste Management system being developed under the Province's Waste Management Strategy. When this determination is made conclusively, the appropriate public tender will be called.

2.9 Multi-Materials Stewardship Board

2.10 Forestry Management

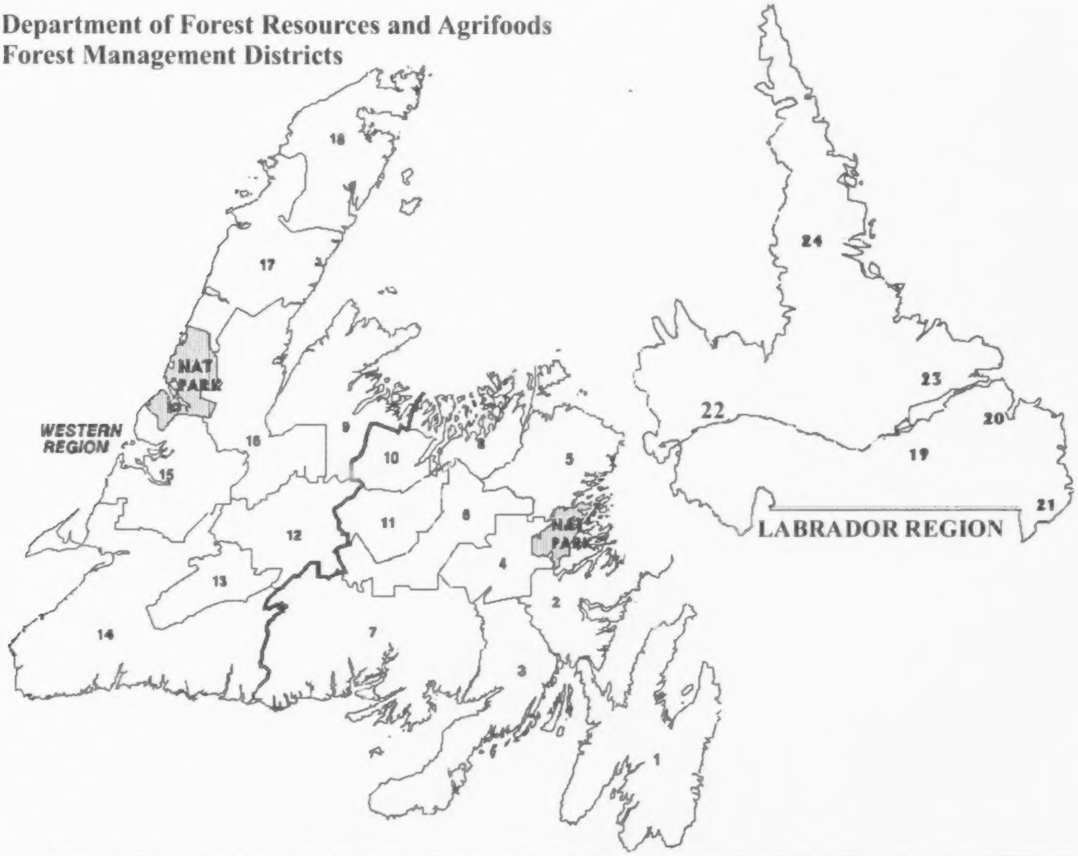
Introduction

The forest sector is one of the Province's largest resource industries. The forest sector consists of two main industries, newsprint and lumber. During the 2000-01 fiscal year newsprint shipments were $675 million and lumber sales exceeded $40 million. The main commercial users of the Province's forests are Corner Brook Pulp and Paper Company Limited and Abitibi Consolidated Company of Canada and approximately 800 commercial sawmills.

As Figure 1 indicates, the Province is divided into 24 forest management districts with 18 districts on the island portion and 6 in Labrador. Most of the forest land in each district is owned by the Crown and the two pulp and paper companies. The pulp and paper companies were provided the right to harvest timber through approximately 180 long-term leasing and ownership agreements ranging from 20 years to 99 years. These agreements will expire between 2002 and 2037.

Figure 1

Department of Forest Resources and Agrifoods
Forest Management Districts



Source: Department of Forest Resources and Agrifoods

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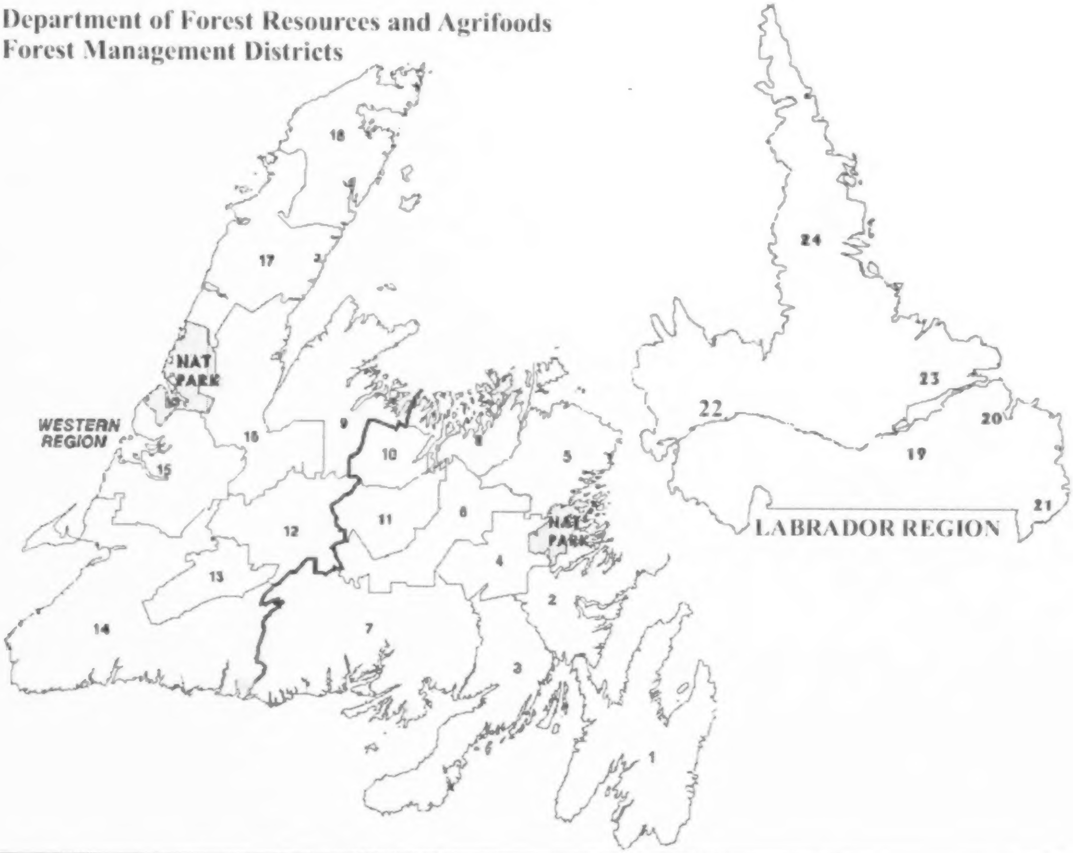


Source: Department of Forest Resources and Agrifoods

2.10 Forestry Management

The Province manages the forests by maintaining forest inventories, establishing an annual allowable cut (AAC) and carrying out a silviculture program. Silviculture activities are designed to ensure the proper regeneration and enhancement of the forest after harvesting or destruction through fires or insect infestations. The level of silviculture, more specifically, the level of planting and thinning, has a direct effect on the future wood supply and therefore the level of sustainable harvest. If planned silviculture activities are not implemented, this will have a negative effect on future harvest levels.

The Department of Forest Resources and Agrifoods is responsible for the management of the Province's forests under the principle of sustainable development. Every five-year period the Department performs a wood supply analysis and determines how much wood can be harvested annually to meet the demand. Since 1985 there has been a decline in the AAC as shown in Figure 2.

Figure 2

Department of Forest Resources and Agrifoods
Annual Allowable Cut and Demand
(Cubic Metres Millions)

Year	Island				Labrador			
	Actual Harvest Level	Annual Allowable Cut	Demand	Surplus (Deficit)	Actual Harvest Level	Annual Allowable Cut	Demand	Surplus (Deficit)
1986 - 1990	2.07	2.74	2.00	0.74	N/A	N/A	N/A	N/A
1991 - 1995	2.06	2.41	2.82	(0.41)	0.04	0.60	0.22	0.38
1996 - 2000	1.90	2.09	2.54	(0.50)	0.06	0.53	0.10	0.43
2001 - 2005	▨	2.00	N/A	N/A	▨	0.53	N/A	N/A

Note: N/A indicates information was not available
Source: Department of Forest Resources and Agrifoods information.

Scope and Objectives

We completed our review of the Department of Forest Resources and Agrifoods forest harvesting and silviculture activities in April 2002. The objectives of our review were to determine whether the Department has systems, policies and procedures in place to adequately manage its harvesting and silviculture activities and to determine:

- if the goals and objectives for forestry development are being achieved;
- whether forest management program activities are adequately monitored and reported; and
- whether there was compliance with legislation and policies.

Conclusions

The Department has established objectives for the long-term development and sustainability of the Province's forest and has implemented a structured planning process to support its objectives. However, a review of actions taken to meet the objectives indicated that the Department has not been successful in alleviating the wood supply deficit. Since the first plan was developed in 1985, the approved AAC has declined more than 27%. This indicates that the forests cannot sustain the cutting levels that were attainable in the mid-eighties.

The Department did not achieve the planned results from its silviculture expenditures for the period 1996 to 2000. The Department received 80% of the planned funding; however, only 69% of the planned silviculture activity was undertaken. The Department planned to treat 98,408 hectares at a cost of $75 million ($762 per hectare); however, only 67,704 hectares were treated at a cost of $60.1 million ($888 per hectare).

There were issues identified regarding the determination of the available forest resource. As a result of changes in the method of determining the AAC land base in 2001, there was an increase of 19% in the AAC land base from 1996 levels. In addition, we were informed that the Department's objective is to complete aerial photography on two districts each year; however, we found that this objective is not being met.

Forest management program activities are not adequately monitored and reported. Specifically, the Department does not verify harvest levels reported by the companies, there is no reconciliation between what sawmill operators produce to amounts reported as harvested, there is minimal enforcement of harvesting on company land, field inspections are not always completed as required by policy, and the Department has not prepared an annual report since 1999-00 nor has it provided an annual report on program activities to the House of Assembly.

2.10 Forestry Management

There were instances of non-compliance with legislation and Departmental policy. Although legislation requires the development of 20 year management plan reports, five year operating plans and annual operating plans, we found that 11 of the 24 districts did not have a 20 year management plan report, 11 of 36 five year operating plans were not prepared and 5 of 16 Crown districts did not have an annual operating plan for 2001-02.

Findings and Recommendations

FOREST MANAGEMENT

1. Forest Inventories

Red Pine Plantation

The Province uses a combination of processes in determining forest inventories, including aerial photography, satellite imagery, permanent and temporary plot sampling, and field inspections. The Department considers its aerial photography supplemented with plot sampling to be the most reliable.

The process of determining forest inventories results in information that is used to classify each district as productive forest, non-productive forest, non-forested land and bodies of water. The inventory is also used to determine the age and type of forests in each district. Our review of the forest inventory process identified the following:

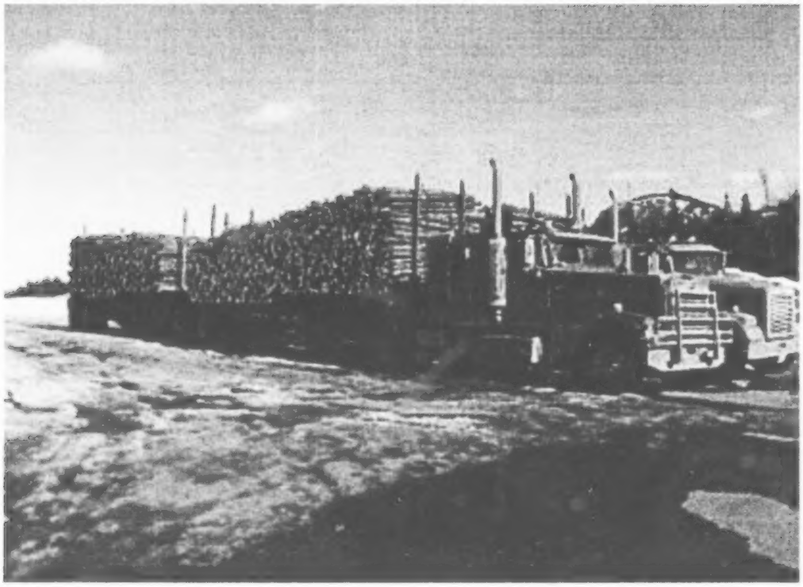
- The AAC land base has changed in each of the Department's five-year planning reviews. For example, from 1990 to 1996 the land base decreased 8.5% (1.744 to 1.595 million hectares) and from 1996 to 2001 the land base increased 19% (1.595 to 1.895 million hectares). The Department indicated that the 19% increase resulted mainly from a new approach to the wood supply analysis which identified specific areas of productive forest which were excluded previously as a result of standard reductions to productive forests in watershed areas, buffer zones and other restricted productive lands.

  Furthermore, changes to the AAC land base, past 5-year harvesting levels, a new wood supply model and inventory adjustments have resulted in significant changes in AAC's in some districts from 1996 to 2001. For example, the AAC increased from 3.8% to 100% in some districts while the AAC decreased from 2% to 54.5% in others.

- The Department's objective is to update two districts' inventory information each year through aerial photography. Our review of the work undertaken by the Department in this area for the period from 1990 to 2001 indicated that no aerial photography was undertaken in either 1996 or 1998. Furthermore, seven districts have not been subject to aerial photography since prior to 1990. Without current aerial photography, inventory data used in the Province's wood supply model may be outdated and unreliable for analysis purposes.

  For example, in district 14, inventory data gathered from 1983-84 aerial photography was used to develop the AAC for one company during the 1996 planning process. After a subsequent review of actual forest inventory in the district, the district staff in conjunction with the pulp and paper company determined that the AAC of 100,000 cubic metres was not sustainable and that only 50% or 50,000 cubic meters of the AAC could be harvested.

2. Planning and Harvest Level



Wood Truck

The *Forestry Act* requires the Minister of Forest Resources and Agrifoods to prepare a wood supply analysis for the Province every five years. The results of this analysis determine the AAC for the next five years. In 1990 the AAC was established for the Province as a whole, whereas in 1996 and 2001 the levels were established on a district basis. In 2001, the district approach to calculating the AAC included isolating and identification of harvesting stands/blocks within each district.The changes to the method of determining the AAC, as well as the changes to the AAC land base, growth rates, insect infestations and reduced pre-commercial thinning levels have contributed to the decline in the AAC by 27% (2,740,000 to 2,004,800 cubic meters) from the 1985 level established for the island portion of the Province. Labrador has also seen a decline of 11% (600,000 to 533,300 cubic meters).

Proper forest management planning must consider a number of diverse factors in determining the AAC. Increased harvesting will require increased silviculture activity to maintain established levels of sustainable harvesting. However, if wood is not harvested as planned, it may become over mature and lose much of its value. Our review identified the following:

2.10 Forestry Management

- The Crown and paper companies are not harvesting wood in accordance with the management plans. We reviewed the actual harvest levels as reported by the paper companies and Crown districts for the five-year period ended in 2000. The actual harvest over this five-year period for each of the 18 districts on the island portion of the Province ranged from 62% to 104% of the AAC. Only 12% of the AAC for the five districts in Labrador was cut. In total, Corner Brook Pulp and Paper Company Limited harvested approximately 94% of its AAC, Abitibi Consolidated Company of Canada harvested 86%, and Crown operators harvested 98%. One paper company only harvested 62% of its AAC in one district while the Crown only harvested 64% of its AAC in another district. Figure 3 shows the AAC and actual harvest levels for each district.

Figure 3

Department of Forest Resources and Agrifoods
District Harvest Level
(Cubic Metres)

District	AAC 1996-2000	Actual 1996-2000	AAC 2001-2005	District	AAC 1996-2000	Actual 1996-2000	AAC 2001-05
1	285,000	268,475	277,500	15	1,746,250	1,491,738	1,529,000
2	412,500	403,320	375,000	16 (Note 1)	1,257,000	1,243,521	936,500
3	-	-	-	17	451,500	470,328	535,000
4	304,000	285,717	253,000	18	556,500	542,794	473,000
5	510,000	488,402	504,000	Total island	10,448,750	9,475,009	10,024,000
6	268,000	269,179	519,000				
7	150,000	120,311	117,500	19	2,000,000	175,770	2,000,000
8	500,000	503,274	465,000	20	260,000	17,776	260,000
9	964,000	969,054	1,027,500	21	225,000	112,891	225,000
10	420,000	393,271	420,000	22	65,000	7,551	65,000
11	680,000	419,188	810,000	23 - 24	116,500	2,200	116,500
12	920,000	851,735	955,000	Total Labrador	2,666,500	316,188	2,666,500
13	200,000	197,734	182,000				
14	824,000	556,968	645,000	Total Province	13,115,250	9,791,197	12,690,500
Annual average Island					2,089,750	1,895,002	2,004,800
Annual average Labrador					533,300	63,238	533,300
Annual average Province					2,623,050	1,958,239	2,538,100

Note 1: District #16's AAC was increased for one company by 225,000 m^3 to allow for an accelerated harvest of over-mature forest.

Source: Department of Forest Resources and Agrifoods Reports

- The Department does not verify the accuracy of actual harvest levels as reported by the pulp and paper industry or sawmills. The Department receives monthly scaler reports from licenced scalers for all wood processed by the pulp and paper companies and sawmills; however, this information is not reconciled to the paper companies' annual reports or district offices' annual returns.

- The Department does not reconcile production amounts for sawmills to wood harvested to determine if unreported timber is being processed. In a July 2001 review of the Province's current wood supply analysis, conducted by a consultant on behalf the Department, the issue of unrecorded harvests was reported as a major problem. The consultant reported that Department staff who performed mill consumption-to-scale checks suggested *"that as much as 150,000 m^3 harvested per year has not been captured in the inventory updates"*.

- There is little enforcement authority available to the Department regarding harvesting activities on company lands. District staff can issue tickets for illegal cutting on Crown land but they do not have the authority to do so on company land.

The Minister, in a letter to one paper company, stated, *"It is still the strong view of my field staff that uncontrolled illegal cutting is occurring on the company's limits, and I have requested the District Managers to continue to give this illegal cutting close attention."* In addition, one district's Crown five-year operating plan stated, *"With easy access to company timber limits, there is a considerable amount of unregulated cutting in these areas close to communities. The companies are responsible for controlling activities on their limits but they don't have neither the will nor the manpower to curtail these activities."*

Without adequate monitoring and enforcement of harvesting on company limits, the drain on the Province's wood supply is being understated.

3. Silviculture Program

Pre-Commercial Thinning

Silviculture activities consist of a core program and an incremental program. The core program consists of regular Crown projects and pulp and paper company projects which provide the base level of silviculture activity in the Province. The incremental program consists of sponsored programs administered by the Newfoundland and Labrador Forestry Training Association which also has an employment creation objective.

From 1996 to 2000 approximately $60.1 million was spent on silviculture activities in the Province. Figure 4 provides a summary of actual silviculture expenditures and treated areas as compared to planned activities for the past five years.

Figure 4

Department of Forest Resources and Agrifoods
Silviculture Expenditures and Hectares Treated
1996-2000

Silviculture Program	Planned Activities		Actual Activities		Variance	
	Expenditure	Hectares	Expenditure	Hectares	Expenditure	Hectares
Core	$50,000,300	66,708	$41,619,191	52,852	$8,381,109	13,856
Incremental	24,999,800	31,700	18,475,951	14,852	6,523,849	16,848
Total	$75,000,100	98,408	$60,095,142	67,704	$14,904,958	30,704

Source: Departmental Silviculture Annual Reports

Our review of silviculture activities identified the following:

- The Province is not achieving the planned results from its silviculture expenditures. For example:
    - Approximately $60 million was spent under the core and incremental programs to treat the same area as was scheduled to be treated for $50 million under the core program only. The Province had planned to treat 98,408 hectares at $762 per hectare; however, it only treated 67,704 hectares at $888 per hectare.
    - From 1991 to 1995, the pre-commercial thinning program was under its targeted treatment by 16% (36,000 hectares compared to 43,000 hectares).
- On an annual basis the Department prepares a report on silviculture activities for its use. Our review indicated that the report did not compare actual activities to planned activities and there was no projection of the effect of variances in silviculture activities on the wood supply.

- The paper companies have an arrangement with the Province whereby they get partially reimbursed for undertaking silviculture activities. The extent of activities and the amount of reimbursement are outlined in five-year agreements between the Province and the companies.

  Reviews prepared by departmental staff on the extent and quality of selected silviculture projects indicated that, in certain instances, one company reported and claimed for more silviculture work than the Department determined it had performed. For example, in its 1998 and 1999 review, the Department identified that the company reported 6.41 hectares as treated, while the reviewed area was only 4.93 hectares. Another area was reported at 5.56 hectares and reviewed at 4.63 hectares, and a third area was reported at 27.52 hectares and reviewed at only 23.96 hectares. Also, in its 2000 review of the company's thinning projects, the Department identified that the company reported more area treated than was actually treated in 22 of the 26 blocks tested, an overstatement of 14.42 hectares.

- Field inspections by district staff were not always performed for paper company silviculture projects as required by Departmental policy. This policy requires that inspection reports be completed monthly for company projects. Our review of the Department's activities for one company indicated that of the seven projects examined by the Department in 2000, six projects did not have any of the required inspection reports completed, while for the other company, seven out of the eleven projects reviewed did not have the required inspection reports completed. Three district offices confirmed during our visits that regular field inspections on land receiving silviculture treatment by the companies are infrequent.

Compliance

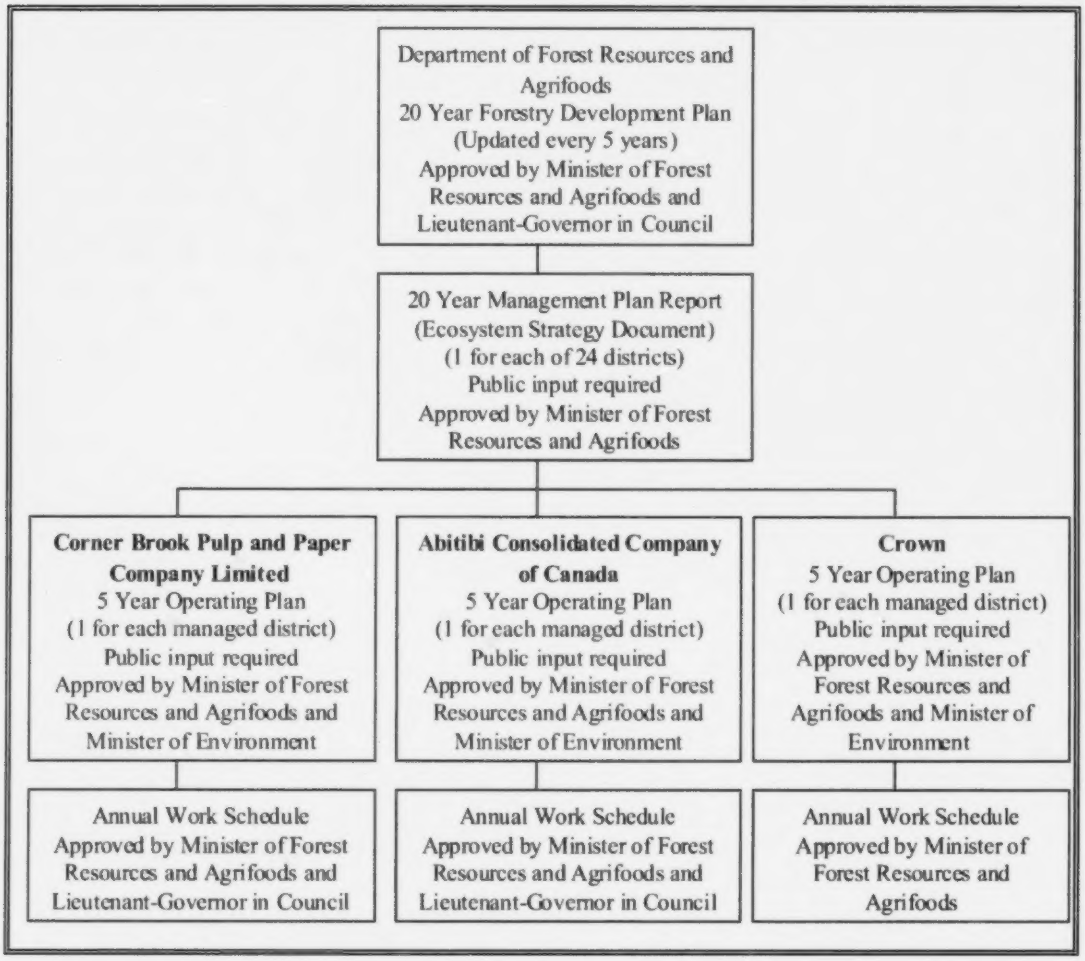
1. Planning

The *Forestry Act* prescribes a planning process which requires the development of a Provincial 20 year forestry development plan, a 20 year district management plan, a 5 year operating plan and an annual work schedule as identified in Figure 5.

2.10 Forestry Management

Figure 5

Department of Forest Resources and Agrifoods
Forest Management Plan
Planning Process


Department of Forest Resources and Agrifoods 20 Year Forestry Development Plan (Updated every 5 years) Approved by Minister of Forest Resources and Agrifoods and Lieutenant-Governor in Council
20 Year Management Plan Report (Ecosystem Strategy Document) (1 for each of 24 districts) Public input required Approved by Minister of Forest Resources and Agrifoods
Corner Brook Pulp and Paper Company Limited 5 Year Operating Plan (1 for each managed district) Public input required Approved by Minister of Forest Resources and Agrifoods and Minister of Environment
Abitibi Consolidated Company of Canada 5 Year Operating Plan (1 for each managed district) Public input required Approved by Minister of Forest Resources and Agrifoods and Minister of Environment
Crown 5 Year Operating Plan (1 for each managed district) Public input required Approved by Minister of Forest Resources and Agrifoods and Minister of Environment
Annual Work Schedule Approved by Minister of Forest Resources and Agrifoods and Lieutenant-Governor in Council
Annual Work Schedule Approved by Minister of Forest Resources and Agrifoods and Lieutenant-Governor in Council
Annual Work Schedule Approved by Minister of Forest Resources and Agrifoods

2.10 Forestry Management

We reviewed a sample of the plans and other information to determine compliance with the planning process. Our review identified the following:

- The *Forestry Act* requires that a 20 year management report be prepared for each of the 24 districts. Eleven of the 24 districts (#1, #3, #9, #15, #17, #18, #19, #21, #22, #23, and #24) did not have a 20 year management report.

- The *Environmental Assessment Act* requires 5 year operating plans be registered one year prior to the proposed date of implementation of the plan (180 days under the new Act assented to 4 August 2000). There were a total of 36 plans required to be submitted by the Crown and the two paper companies in accordance with the *Act*. However, none of these 5 year plans were submitted within the time frames required by the *Act*. Furthermore, 11 of these 5 year plans have never been submitted. The 11 is comprised of 6 relating to the Crown and 5 relating to the 2 pulp and paper companies.

- Departmental policy requires that annual operating plans be submitted 90 days prior to the start of the plan period and approved by the Department within 45 days.

    - For the 2001-02 year, both paper companies and 12 Crown districts submitted their plans after the required date. Furthermore, the Crown has not submitted annual operating plans for the 2001-02 year for 5 districts. For the 12 Crown districts that submitted plans after the required date, 2 were the first for the districts, 2 were the first since 1995-96 and 2 were the first since 1996-97.

    - None of the annual operating plans were approved by the Department within the required 45 days. For example, one pulp and paper company submitted its 2001 annual operating plan on 21 November 2000; however, it was not approved until 5 October 2001, while the other pulp and paper company submitted its 2001 annual operating plan on 12 October 2000; however, it was not approved until 7 November 2001.

2. Reporting

The *Forestry Act* requires that district offices and paper companies report annually the actual harvest levels compared to the AAC. We reviewed these annual reports and identified the following:

- Four district offices reported AAC's different from what was approved in the Province's twenty-year plan. For example, the AAC in one district was approved at 82,500 cubic metres in the twenty-year plan; however, the district reported an AAC of 80,000 cubic metres for 1996, 1997 and 1998 and 63,562 cubic metres for 1999.

- The *Forestry Act* requires the two paper companies to submit an annual report detailing the progress toward the implementation of and compliance with their management plans. The Department requires this information be submitted by 30 September. Since 1996, one of the two companies has not submitted its annual report until October or later.

3. Enforcement

If a paper company does not comply with Department policy the Department can declare the company land unmanaged and levy a higher tax on that land. In July 1996 and November 1998 the Department assessed one paper company three unmanaged land tax assessments totalling $69,000. Our review of the assessments identified the following:

- The *Forestry Act* states that a party who has been assessed an unmanaged land tax must pay the amount within three months of the assessment notice. The *Act* also states that the filing of an appeal, or a delay in the hearing of the appeal does not affect the due date of the payment of the tax. No payments have been received to date.

- The *Forestry Act Regulations* state that interest of 1.2%, compounded monthly, will be charged on any unpaid amounts assessed under these Regulations. The Department has not charged the company any interest. The total interest on $69,000 compounded monthly at 1.2% from the date of assessment to 31 March 2002 totals $51,530.

- The company appealed all three assessments in January 1997 and February 1999. Pursuant to the *Forestry Act*, the Forest Land Tax Appeal Board was established and has been re-established several times but has yet to meet to address the notices of appeal.

Accountability

The Department last prepared an annual report for the Newfoundland and Labrador Forest Service for the 1999-00 fiscal year. A review of the annual report identified that the Department's actual achievements towards its planned forestry objectives and criteria were not compared, the status of the Province's wood supply and harvesting activities were not reported, and silviculture and harvesting monitoring activities were not identified. Also, the 1999-00 annual report was not tabled in the House of Assembly.

The Department prepares a 20 Year Forestry Development Plan, which is updated every five years; however, this plan is not tabled in the House of Assembly.

Although the Department does prepare a silviculture annual report, this report is used for internal purposes only. Our review of this report indicated that it only provides information on actual silviculture activities during the past year and does not provide comparative information to what silviculture activities were planned or information on the Department's progress in meeting its silviculture goals.

Recommendations

The Department should:

- *ensure forest inventories are up to date and accurate;*
- *establish procedures to verify the accuracy of reported harvest levels;*
- *ensure silviculture activities meet program objectives as outlined in the 20 year Forestry Development Plan;*
- *ensure the Crown and pulp and paper companies comply with legislative planning and reporting requirements; and*
- *provide a report to the House of Assembly on the progress towards the achievement of forestry objectives.*

Department's Response

Before attempting to respond to the draft reports comments and recommendations, I would like to raise a more fundamental issue regarding the challenge of conducting a technical review of a forest management program by financial auditors. I am sure you are familiar with the recent controversy in the federal system as well. Technical audits of forest management programs require an in-depth understanding of the natural resources, the living systems, interactions between living and non-living organisms, superimposed by economic, social and political considerations. It is difficult to grasp the complexities, unless one works directly in this field.

The review itself is focused mostly on the 20 year plan, silviculture, the implementation and subsequent delivery of programs such as forest inventory, and reporting of harvesting levels. I would point out these programs are only a part of the overall forest management program in this province.

The 20 year forest management plan is a strategy document which provides the analysis of the resource every five years and outlines directions in which the department plans to progress. While it does attempt to outline the desired levels of expenditures on silviculture, roads and other programs, it does not make commitments to fund these programs. As you are aware, only the House of Assembly can approve the annual budgets. These planning targets serve however, in helping the department argue for obtaining the necessary funds to carry out required programs. As you are aware, there is no guarantee that the House of Assembly will provide all of those funds. That is in fact one of the reasons why this long term strategy is revised every five years so that the actual programs delivered be assessed and future projections are revised accordingly.

The allowable cut calculations are based on the actual level of funds in the recent past and not on the desired levels.

The Act requires the 20 year plan to be approved by the Lieutenant Governor in Council. There is no requirement for its tabling in the House of Assembly. The Minister has however been tabling for the last couple of times in order to inform the MHA's and the general public about the plan. Again, contrary to the report there is no legal requirement for tabling of the 20 year plan in the House or tabling departmental annual reports.

2.10 Forestry Management

The 20 year strategies for districts need not be a separate document from the 5 year operating plans. The department has used two mechanisms to meet this objective. In some cases a separate document has been prepared while in others the stakeholder group has outlined the longer term strategy in the 5 year operating plans in order to make a clear connection with a longer term vision and strategy and the 5 year deliverables.

The 5 year revisions to the 20 year plan and the re-write of the 5 year operating plans is a tool for adaptive forest management which allows us to capture the changes and additional information and adjust the allowable cuts and the resulting forestry operations accordingly. Society's expectations from its natural resources are constantly changing. The value system is evolving. The structure of the industry is always under change. Environmental requirements are getting more stringent. The level of public participation in decision making has been increasing over the last decade or so. As a result, various constraints have been placed on where wood can be harvested and how much can be harvested. The changes in the AAC are mostly a reflection of the above mentioned changes in societal values and expectations.

The report indicates that in some districts, less than the budgeted AAC has been harvested in particular years. It is worth noting that undercutting of an AAC is not generally negative for forest management purposes. Obviously, the Department can not force an operator to cut every tree budgeted for in operating plans. Operational constraints, mill closures, market conditions, or any number of other factors are considered in the operators decision to harvest or not harvest. Trees that are not harvested simply go to provide future fibre.

With regard to specific comments on monitoring in the report, I would like to point out that the department carries out sampling of the silviculture projects. The department over the years has reduced its sampling intensity because of the reduction in staff and budgets. There is, however, still significant sampling undertaken, and audits are completed as it relates to silviculture agreements. The fact that the Crown silviculture agreements provide for these checks and audits is a recognition that there will be some discrepancies in the actual layout of the field work which are captured and corrective action taken in due time. In fact, any shortfalls have been more than made up by the pulp and paper industry as a result of these audits.

The paper companies are not "partially reimbursed" for undertaking silviculture activities. Silviculture is a basic requirement of sound forest management on all tenures and the Province participates in cost-shared agreements with the companies to ensure silviculture is carried out on both Crown and Company limits.

2.10 Forestry Management

The department has been improving the tracking of the wood flow in the province. The scaling or measurement of the wood itself has been undergoing considerable changes from stacked volume, cord and cubic meter measurements to solid cubic meter measurements and now the weight measurements. Sawlogs have been measured in Newfoundland log measure in the past which depends on the expected output of lumber from given volume of logs, while pulpwood has been measured stacked, solid and even weight. Chips which are a growing commodity now, are measured by weight. The department's scaling and monitoring system has been evolving. The very fact that the department identified some gaps during their reconciliation efforts is a reflection of the department's efforts. The department has also introduced a new load slip system this year which will track all commercial wood being transported in the province. We have also introduced a new computerized monitoring system called "FORST" which record all commercial cutting and sawing information on a quarterly basis.

The report indicates that there is little or no enforcement on pulp and paper company tenure. In the past, this responsibility rested with the pulp and paper companies because of the nature of land tenure in the province. However, the two pulp and paper companies have agreed to extend the legal authority of Departmental officers to monitor and enforce on company land within the next twelve months.

All the annual reports by the pulp and paper companies have been submitted. Any delays in submissions are generally agreed to by our staff on behalf of the Minister. There have been some lapses in submission of the Crown reports that is being expedited.

The incremental funding for silviculture projected in the plans are department's best estimates for accessing any job creation programs and any federal/provincial funds for job creation in silviculture. Obviously, there is no guarantee that the federal and other sources of funding would continue over time. Since the job creation projects have high per unit cost, they tend to mislead the casual observer of the nature of silviculture unit costs.

The total number of hectares receiving silviculture treatments depends on a mix of treatments. If more expensive treatments go up in the mix as compared to less expensive ones, the total area delivered would also be less and vice versa.

Regarding annual reports, the 1999/00 report was printed over a year ago, the 2000/01 report is at the printer for publication, and the 2001/02 report is nearing completion. It is normal practice to have a lag time for annual reports to ensure all data is collected and properly analyzed before it is submitted to any report.

It is unfortunate that the report paints a negative picture of this Department and the perception that it is not carrying out proper forest management in this province. In fact, Newfoundland and Labrador is very much at the forefront of forest management in the country and is recognized as such particularly as it relates to its planning process and the inclusion of the public in plan development.

Having made the above comment on the report, I would like to acknowledge that your comments will be helpful in a number of departmental initiatives currently underway. For example, we are currently engaged in a review and revision of our forest management planning process, the legal framework and mechanism for partnerships for integrated forest resource management.

2.10 Forestry Management

2.11 Newfoundland and Labrador Farm Products Corporation

Introduction

Newfoundland and Labrador Farm Products Corporation (the Corporation) was established in 1963 under the *Farm Products Corporation Act*. In 1996, a new Board of Directors was appointed and given the mandate to pursue privatization. In April 1997, the Corporation closed its Corner Brook plant. In October 1997, the Corporation sold the assets of its St. John's plant to Integrated Poultry Limited. At that point, Government entered into a number of agreements with Integrated Poultry Limited for the operation of the St. John's plant. In February 2000, Integrated Poultry Limited was placed in receivership and in March 2000, the assets were sold to 10874 Newfoundland Inc. (now known as Country Ribbon Inc.). As part of this sale, and in accordance with previous agreements in place, Government entered into an agreement with 10874 Newfoundland Inc. (now known as Country Ribbon Inc.).

Scope and Objectives

We conducted a review of Newfoundland and Labrador Farm Products Corporation during 1997. Follow-up reviews were completed in 1998 and 1999 as the terms and conditions of the purchase and sale agreement between Newfoundland and Labrador Farm Products Corporation and Integrated Poultry Limited were still being realized, and the divestiture process of Newfoundland and Labrador Farm Products Corporation was still ongoing. With the receivership of Integrated Poultry Limited and the purchase of the assets by 10874 Newfoundland Inc. (now known as Country Ribbon Inc.) an additional review was conducted during 2000.

We conducted a follow-up review of Newfoundland and Labrador Farm Products Corporation during 2002. The objectives of our review were:

- to review compliance with the terms and conditions of the Agreement between the Province, Newfoundland and Labrador Chicken Marketing Board, Newfoundland and Labrador Farm Products Corporation, and Country Ribbon Inc.;

- to review financial transactions between Government, Newfoundland and Labrador Farm Products Corporation, Integrated Poultry Limited, and Country Ribbon Inc.; and

- to review the status of the assets at the Corporation's Corner Brook plant.

Our follow-up review included discussions with members of the Corporation's Board of Directors and a review of Board minutes and other relevant documentation.

2.11 Newfoundland and Labrador Farm Products Corporation

Conclusions

Agreement with Country Ribbon Inc.

The agreement with Country Ribbon Inc. provided a number of obligations for both the Farm Products Corporation and Country Ribbon Inc. Although the minutes of the Corporation indicated that regular monitoring of Country Ribbon Inc. was conducted, we found that:

- The Agreement required Country Ribbon Inc. to invest $3.0 million in capital improvements by 9 March 2002. In a letter to the Minister of Forest Resources and Agrifoods dated 1 March 2002, the company indicated that it had made capital improvements of $3.2 million. This information was not independently verified.

- Although the Agreement required Country Ribbon Inc. to maintain continuously, until 9 March 2005, employment levels at not less than 75% of the employment level existing on 9 March 2000, Corporation officials could not provide the employment level at that date. Therefore, the Corporation could not determine whether the Company has complied with this requirement. In a letter to the Minister of Forest Resources and Agrifoods dated 1 March 2002, the company indicated that over the previous two years it had employed 325 people. This information was not independently verified.

The Board decided in June 2002 that it would no longer monitor the terms of the Agreement as it was determined that it was more appropriate for the Department of Forest Resources and Agrifoods to assume this responsibility. The Board continues its involvement with the Corner Brook plant.

As part of the Agreement, Country Ribbon Inc. agreed not to seek any loan guarantees, grants or other forms of financial assistance from the Province in respect of the purchase of the Business or in respect of its operation of the Business to the end of the Agreement on 9 March 2005. However, in a letter to the Minister of Forest Resources and Agrifoods dated 1 March 2002, the company requested Government to fund a number of capital improvements and to provide additional building space at no cost.

2.11 Newfoundland and Labrador Farm Products Corporation

Financial transactions

During 2001-02 Government wrote off amounts totalling $928,597, comprised of $583,963 owed by Integrated Poultry Limited and $344,634 owed by Newfoundland and Labrador Farm Products Corporation. In March 2002, Cabinet directed the Department of Finance to provide funding of $200,000 to Farm Products Corporation to pay expenses related to the Corner Brook facilities up to 30 September 2003.

In April 2002, Cabinet also directed the Department of Finance to collect, from the shareholders of Integrated Poultry Limited, guarantees totalling $1,000,000 and loans totalling $112,614.

Corner Brook plant

When the Corner Brook plant closed in 1997, Government provided $500,000 to enable Maple Valley Foods Limited to be formed by the former employees to investigate alternative uses for the Corner Brook plant. In 2001, the Board indicated that approximately four years and $500,000 has yielded no measurable level of success.

In March 2002, Cabinet directed the Corporation to enter into a nominal lease with Maple Valley Foods Limited for the use of the property and building in Corner Brook for the period 1 April 2002 to 30 September 2003. In order for the Corporation to continue to pay expenses related to the Corner Brook facilities up to 30 September 2003, funding of $200,000 was provided by the Department of Finance in March 2002.

Detailed Findings

1. Agreement with Country Ribbon Inc.

On 9 March 2000, the Province, the Newfoundland and Labrador Chicken Marketing Board, Newfoundland and Labrador Farm Products Corporation, and 10874 Newfoundland Inc. (now known as Country Ribbon Inc.) entered into an agreement regarding certain matters related to the purchase of IPL Production Limited and IPL Processing Limited by 10874 Newfoundland Inc. The agreement provided a number of obligations for both the Corporation and 10874 Newfoundland Inc.

2.11 Newfoundland and Labrador Farm Products Corporation

(a) The Company's Obligations under the Agreement

The minutes of the Corporation indicated that regular monitoring of Country Ribbon Inc. was conducted. As part of this monitoring, on 18 February 2002, the Chairman of the Corporation requested Country Ribbon Inc. to provide an update on the progress of the obligations it had undertaken under the Agreement. Our review of the Company's obligations under the Agreement indicated the following:

- The Company agreed to invest in integrated chicken production, processing and marketing activity, the sum of $3.0 million in capital improvements by 9 March 2002. In a letter to the Minister of Forest Resources and Agrifoods dated 1 March 2002, the company indicated that it had made capital improvements of $3.2 million. This information was not independently verified.

- The Company agreed not to seek any loan guarantees, grants or other forms of financial assistance from the Province in respect of the purchase of the Business or in respect of its operation of the Business to the end of the Agreement on 9 March 2005. However, in a letter to the Minister of Forest Resources and Agrifoods dated 1 March 2002, the company requested Government to fund a number of capital improvements, including a new roof and siding for the Pleasantville building, pavement for the Cochrane Pond access road and to provide additional building space at no cost. The only estimate of cost provided was $350,000 for the new roof.

  In a separate letter of the same date, the Company also requested the assignment of the Province's entire broiler quota to a lender or lenders as security for the capital requirements of Country Ribbon Inc. over the next five years.

- The Company agreed to maintain continuously, until 9 March 2005, employment levels at not less than 75% of the employment level existing on 9 March 2000. Corporation officials could not provide the employment level at that date. Therefore, the Corporation could not determine whether the Company has complied with this requirement. In a letter to the Minister of Forest Resources and Agrifoods dated 1 March 2002, the company indicated that, over the previous two years it had employed 325 people. This information was not independently verified.

In the event that 10874 Newfoundland Inc. fails to perform or observe, in any material respect, any of its obligations, the Government and the Commodity Board may, in their sole discretion, revoke all quotas and other related Government approvals issued or granted to the company.

The Board, in conjunction with the Department of Forest Resources and Agrifoods, decided in June 2002 that it would no longer monitor the terms of the Agreement as it was determined that it was more appropriate for the Department to assume this responsibility. The Board continues its involvement with the Corner Brook plant.

(b) The Province's Obligations under the Agreement

Effective for a period of five years from 9 March 2000, the Province agreed to provide an environmental indemnity relating to the Pleasantville and Cochrane Pond sites. Since this Agreement, Country Ribbon Inc. has made two claims under the Province's indemnity guarantee, as follows:

- In June 2000, the Corporation was advised by Country Ribbon Inc. that a quantity of hazardous substances beneath Building 905 in Pleasantville had to be removed. On 23 January 2002, Country Ribbon Inc. requested $52,063 relating to the cleanup of the hazardous substances. In February 2002, the Corporation was advised that the hazardous substances had been removed and the site had been remediated and that the claim was reasonable based on the attending documentation. The Corporation required that Country Ribbon Inc. execute an appropriate release prior to payment. Board officials indicated in November 2002 that Country Ribbon Inc. has signed the release and the Corporation has made the payment.

- In December 2001, the Corporation received a notice of claim respecting environmental damage done at the Cochrane Pond site which Country Ribbon Inc. attributed to a design flaw in the chicken waste storage site. It was the view of the Board of Directors that the issue was a waste mismanagement problem and not a design flaw. In June 2002 the Chairman noted that this matter is being reviewed by the Department of Forest Resources and Agrifoods and will not involve the Corporation.

In March 2002, the Board noted that the indemnity provision of the Agreement was the responsibility of Government and while the Corporation had agreed to pay the amount relating to the removal of hazardous substances beneath Building 905 in Pleasantville, the Board, in conjunction with the Department of Forest Resources and Agrifoods, decided that any other claims should be the responsibility of the Department.

2. Financial transactions

Our review of financial transactions between Government and Newfoundland and Labrador Farm Products Corporation and Integrated Poultry Limited indicated the following:

(a) Forgiveness of debt - $928,597

During 2001-02 Government wrote off amounts totalling $928,597, of which $583,963 related to Integrated Poultry Limited and $344,634 related to Newfoundland and Labrador Farm Products Corporation. Details of these amounts are as follows:

Integrated Poultry Limited - $583,963

In January 2001, the final court order respecting the receivership of Integrated Poultry Limited was issued. In November 2001, the Department of Finance received Treasury Board approval to write off $369,576 relating to an earlier pay out of a loan guarantee.

In October 2001, the Department of Works, Services and Transportation received Treasury Board approval to write off an account receivable totalling $98,567 relating to charges for steam at the Pleasantville facility.

In May 2001, the Department of Finance received Treasury Board approval to write off outstanding guarantee fees totalling $115,820.

2.11 Newfoundland and Labrador Farm Products Corporation

Newfoundland and Labrador Farm Products Corporation - $344,634

During the period 31 January 2000 to 22 February 2000, the Corporation provided credit sales of grain to Integrated Poultry Limited. These credit sales amounted to $400,930 and upon the receivership of Integrated Poultry Limited became a bad debt. As a result of a demand for payment by the bank pursuant to the provisions of the loan guarantee, Government repaid the outstanding loan amount totalling $358,121 and subsequently demanded repayment from the Corporation. During 2000-01 the Corporation repaid $13,487 with the balance of $344,634 authorized for write off by Treasury Board in November 2001.

(b) Operating grants - $200,000

In order for the Corporation to continue to pay expenses related to the Corner Brook facility to 30 September 2003, Cabinet directed in March 2002 that the Department of Finance provide a grant of $200,000.

(c) Guarantees from shareholders - $1,000,000

In order to secure its initial financing guarantees Government, in addition to having security on the Integrated Poultry Limited real property, obtained personal guarantees of $50,000 from each of the 20 shareholders.

Integrated Poultry Limited was placed in receivership on 23 February 2000 with the final court order dated 15 January 2001. In April 2002, Cabinet directed the Department of Finance to proceed to collect on guarantees totalling $1,000,000 due from the 20 shareholders of Integrated Poultry Limited. As at November 2002, the Department has not proceeded with this action and no guarantees have been collected.

(d) Shareholder loans - $112,614

During the receivership process for Integrated Poultry Limited, the Receiver identified shareholder loans to Integrated Poultry Limited from 16 of its 20 shareholders totalling $112,614. This amount relates to payments made by Integrated Poultry on behalf of these 16 shareholders to meet third party obligations during the six-month period prior to the receivership. The Receiver recommended to Government that no further action be taken to collect these accounts since the costs of doing so may well exceed any benefits that may be realized. Consequently, these shareholder loans were assigned to Government.

The final court order was dated 15 January 2001. In April 2002, Cabinet directed the Department of Finance to proceed to collect the $112,614 in shareholder loans. As at November 2002, the Department has not proceeded with this action and no loans have been collected.

3. Corner Brook plant

When the Corner Brook plant closed in 1997, Government provided $500,000 to enable Maple Valley Foods Limited to be formed by the former employees to investigate alternative uses for the Corner Brook plant. In 2001, the Board indicated that approximately four years and $500,000 has yielded no measurable level of success.

In May 2001, the Corporation's Board of Directors concluded that it did not believe that Maple Valley Foods Limited had the resources necessary to maintain operation of the Corner Brook plant without ongoing financial support from Government. The Board recommended to the Minister of Forest Resources and Agrifoods that it be authorized to invite proposals for the sale of the Corner Brook plant and that if no acceptable proposals are received, the Board proceed with complete close down of the facility.

However, in March 2002, Cabinet directed the Corporation to enter into a nominal lease with Maple Valley Foods Limited for the use of the property and building in Corner Brook until 30 September 2003. On 1 April 2002, the Corporation entered into a lease with Maple Valley Foods Limited for the period 1 April 2002 to 30 September 2003.

In March 2002, Cabinet directed the Department of Finance to provide the Corporation with a grant of $200,000 to continue to pay expenses related to the Corner Brook facility to 30 September 2003.

Board's Response

The observations contained in your report are considered accurate insofar as the activities of NFPC are concerned. It is noted, however, that certain observations are also made with regard to activities of the Department of Forestry and Agrifoods and the Department of Finance. The NFPC Board of Directors is not in a position to comment on these observations.

Department of Finance Response

With regard to the issue of collection of obligations due drom the shareholders of Integrated Poultry Limited (IPL), it is this Department's intention to shortly issue requests for Statements of Personal Net Worth to each of the shareholders. This information will form the basis for making a full assessment as to the ability of each of these individuals to meet their obligations, and if it is appropriate to pursue further collection efforts.

Department of Forest Resources and Agrifoods Response

No response provided.

2.11 Newfoundland and Labrador Farm Products Corporation

2.12 Prepaid Funeral Services

Introduction

The Department of Government Services and Lands is responsible for a number of Government's services to the public, including protection of consumers. The Department's Trade Practices and Licencing Division is responsible for the administration of the prepaid funeral services program. This includes the licensing and regulating of funeral homes to sell prepaid funerals.

The *Prepaid Funeral Services Act* was assented to on 12 May 2000 and came into force on 22 December 2000. *Regulations* under the *Act*, the *Prepaid Funeral Services Regulations*, also came into force on 22 December 2000. One of the main purposes of the legislation is to protect consumers who have entered into prepaid funeral contracts from financial loss, in the event of the failure of a funeral home. The purpose of the *Regulations* is to establish uniform requirements for prepaid funeral contracts. The *Act* also establishes a Consumer Protection Fund for Prepaid Funeral Services (Assurance Fund) to reimburse consumers who lose their investment due to the failure of a funeral home.

Over the past five years, there were an average of 4,340 deaths per year in the Province. Documentation on file at the Department indicates that there are currently 91 funeral homes in operation in the Province. These 91 funeral homes are owned by 50 companies. Based on the information the Department has available, these 91 funeral homes have approximately 6,250 prepaid funeral service contracts outstanding. Also based on the information the Department has available, it is estimated that the average prepaid funeral service contract amount is $5,600. Therefore, there is an estimated $35 million in outstanding prepaid funeral service contracts between consumers and the funeral homes. The *Prepaid Funeral Services Act* requires that monies received from consumers for prepaid funeral contracts be kept in a separate trust fund at a financial institution.

Scope and Objectives

We completed our review of prepaid funeral services in March 2002. Our review covered the period from 22 December 2000, when the *Act* and *Regulations* came into force, to 31 March 2002. Our objective was to determine Government's progress on the implementation of this new prepaid funeral services program.

2.12 Prepaid Funeral Services

Conclusions

The *Prepaid Funeral Services Act* was assented to in May 2000 and came into effect on 22 December 2000. At the time of our review in March 2002, the Department had made very little progress with the implementation and administration of the prepaid funeral services program. With the exception of two letters issued to the funeral homes during June 2001, one related to the licensing of funeral homes and the other related to the requirements of the Assurance Fund, there was little or no follow-up performed by the Department. The Department had not established policies and procedures for the program and did not hire a full-time employee to administer the program until January 2002.

At the time of our review in March 2002, only 28 of the 91 funeral homes in the Province had submitted licence applications. Of these 28, 27 were licensed although only 4 of these homes had fully complied with all requirements of the *Prepaid Funeral Services Act* and *Regulations*. Furthermore, while all of the 27 licensed funeral homes have paid their required licence fee, 13 have not paid the required Assurance Fund assessment.

A total of $137,830 was paid from the Assurance Fund bank account from 6 April 2001, the date the account was established, to 31 March 2002. These payments were for claims arising from prepaid funeral contracts resulting from the failure of a funeral home in Port aux Basques in November 2000. At that time 88 consumers had purchased prepaid funerals from the funeral home valued at a total of $492,790. The $137,830 paid from the Fund related to 23 of the 88 contracts. Although the *Act* did not come into effect until December 2000, an amendment was made in May 2001 to retroactively honour claims against licensed funeral homes as though the *Act* had come into effect on 1 November 2000. However, the failed Port aux Basques funeral home was never licensed under the *Act*. Therefore, there was no authority under the *Act* for payments to be made based on claims arising from the failure of the funeral home.

Findings and Recommendation

The *Prepaid Funeral Services Act* was assented to in May 2000 and came into effect on 22 December 2000. *Regulations* under the *Act*, the *Prepaid Funeral Services Regulations,* were also proclaimed into effect on 22 December 2000. Responsibility for administering the Act was assigned to the Minister of Government Services and Lands. The Trade Practices and Licensing Division of the Department of Government Services and Lands was assigned the administration and implementation of the prepaid funeral services program.

Although the Act came into effect on 22 December 2000, the Department did not contact the funeral homes to advise them of the requirements of the new legislation until a letter was issued on 4 June 2001. In that letter, the Department advised the funeral homes of the new *Prepaid Funeral Services Act* and *Regulations* and advised them of the establishment of the Assurance Fund which is to be used to compensate consumers in the event of a claim arising out of a prepaid funeral contract. Funeral homes were requested to remit the required Assurance Fund assessment fees.

On 27 June 2001, the Department issued another letter to the funeral homes advising them of the licensing requirements and related licensing fee. There was an enclosed licence application form that was required to be completed and returned, along with a cheque for the current licence fee, to the Department.

In January 2002, the Department hired a financial analyst to be the administrator of the prepaid funeral services program and the Assurance Fund.

1. Application and Licensing

The *Act* requires that funeral homes be licensed on an annual basis to sell prepaid funeral services. To be licensed, a funeral home must submit an application within 90 days after the funeral home's year end. The licence application specifies the following:

- applicant information;
- financial institution for the applicant's prepaid funeral trust fund;
- licence fee calculated as 1/10 of 1% of prepaid funeral contracts outstanding, with a minimum fee of $100 and a maximum fee of $750;
- audited financial statements pertaining to the applicant's prepaid funerals and its trust account; and
- sample copy of a prepaid funeral services contract.

2.12 Prepaid Funeral Services

Our review of the prepaid funerals application and licensing process indicated that, although the *Prepaid Funeral Services Act* came into effect on 22 December 2000, as at 31 March 2002 no applications have been received from 63 of the 91 funeral homes. The Department issued a letter to the funeral homes on 27 June 2001 requesting that the enclosed application form be completed; however, the Department did not follow-up with the 63 funeral homes which did not respond to determine whether they are required to be licensed.

Our review of the applications submitted to the Department by the 28 funeral homes indicated that, although only 6 of the 28 provided all of the required information, only 1 of the remaining 22 funeral homes was not issued a licence. In that instance, the funeral home did not provide the licence fee. Issues related to the 22 incomplete applications are as follows:

- 18 did not submit the required audited financial statements with their application; and
- 11 did not submit a sample copy of a prepaid services contract.

The Department has not established policies for the administration of the prepaid funeral services program including procedures for staff to follow when applications are incomplete or late.

2. Consumer Protection Fund for Prepaid Funeral Services

The Consumer Protection Fund for Prepaid Funeral Services (the Assurance Fund) was established pursuant to section 5 of the *Prepaid Funeral Services Act*. The purpose of the Assurance Fund is to pay claims arising out of a prepaid funeral contract against a funeral home licensed under the *Act*. The Assurance Fund consists of money paid into the fund by the funeral homes, any monies borrowed under the *Act* and the interest earned on monies in the fund.

The *Act* requires funeral homes that are licensed to sell prepaid funerals to pay into the Assurance Fund an amount of money based on the amount of prepaid funeral contracts. The *Regulations* specify the calculation for the assurance fund assessment as 1% of the cost of a prepaid funeral contract, the cost calculated as the total contract price reduced by fees and commissions and the cost of the purchase of a cemetery plot.

The costs and expenses in administering the Assurance Fund are to be paid from the fund. Section 5(4) of the *Act* states that the Minister may establish a board to administer the Assurance Fund. The Assurance Fund is required to be audited annually and a report on the audit is to be submitted to the Minister not more than 90 days after the end of the year (i.e. 30 June).

Our review of the Assurance Fund indicated the following:

- The Assurance Fund bank account was established 6 April 2001. At 31 March 2002, the account was in overdraft by $118,561. The following transactions have occurred to date:

Activity	Amount
Assessments	$21,987
Payments related to claims arising from prepaid funeral contracts	(137,830)
Bank overdraft interest and service charges	(2,718)
Balance	**($118,561)**

Source: Consumer Protection Fund for Prepaid Funeral Services

In accordance with the *Regulations*, one condition which may force the payment of claims from the Assurance Fund is the bankruptcy of a funeral home licensed to sell prepaid funerals. The $137,830 in payments for claims arising from prepaid funeral contracts resulted from the failure of a funeral home in Port aux Basques in November 2000 where 88 consumers had purchased prepaid funerals totalling $492,790. The $137,830 paid from the Fund at the time of our review relates to 23 of the 88 contracts. Although the *Act* did not come into effect until December 2000, an amendment was made in May 2001 to retroactively honour claims against licensed funeral homes as though the *Act* had come into effect on 1 November 2000. However, the failed Port aux Basques funeral home was never licensed under the *Act*. Therefore, there was no authority under the *Act* for payments to be made based on claims arising from the failure of the funeral home.

- In accordance with the authority provided under the *Act*, the Minister has entered into an agreement with the bank for a $200,000 overdraft credit facility. This $200,000 line-of-credit is guaranteed by the Province.

- Although the Department has issued licences to 27 funeral homes, 13 of the 27 licensed homes have not paid the required Assurance Fund assessment.

- The Minister has not exercised the option to establish a board to administer the Assurance Fund. The Minister has however appointed an administrator of the Assurance Fund.

- The first complete year for the requirement under the *Act* to audit and report to the Minister on the Assurance Fund is 31 March 2002 which is due by 30 June 2002. In May 2002 and subsequent to our review of the program, we were requested to perform the audit of the Assurance Fund.

Recommendation

The Department should increase its activity regarding the implementation and administration of the Prepaid Funeral Services Act *and* Regulations.

Department's Response

First, I wish to place in context the environment in which the legislation was implemented. The main purpose of the legislation is to protect consumers who have entered into prepaid funeral contracts from financial loss, in the event of the failure of a funeral home.

The Prepaid Funeral Service Program was challenged to meet this mandate even before the Prepaid Funeral Services Act, *(the "*Act*"), came in effect in December of 2000. The bankruptcy of a Port aux Basques funeral home in November of 2000 necessitated the efforts of the Department shifting from implementation to consumer protection. There were 88 consumers, most of whom were elderly, and their families who found themselves involved in a criminal investigation, without their prearranged funeral services and with a financial loss of the funds paid under each prepaid contract.*

2.12 Prepaid Funeral Services

There were the three immediate demands placed upon the Department; participation in a criminal investigation; securing funeral services for the affected persons; and financing of any potential solution. Limited human resources were quickly consumed in working with the Commercial Crime Division of the RCMP, the Newfoundland and Labrador Funeral Services Association, industry representatives and the many purchasers of prepaid funeral contracts. The end results of these efforts were a conviction of theft and false pretense by the owner of the funeral home, full restitution order granted to the Department and the provincial funeral industry honoring contracts sold to affected individuals. To date the mandate of the Prepaid Funeral Services Program and the Department of Government Services and Lands to protect the public interest has been attained.

1. Application and Licensing

During the implementation of the Act *the Department has encountered a number of human resource issues. All of this work had to be carried out by existing staff as it takes time to recruit staff for any new program. Since hiring of the program administrator, the Department has implemented actions which has resulted in an increase in applications received from an estimated 31% of funeral homes operating in the province to 86%. A funeral home is only required to make application if they plan to sell prepaid funeral contracts as defined by the* Act. *58% of funeral homes have submitted financial statements, up from 11%; 100% of provincial funeral homes have been contacted through registered correspondence and have had subsequent contact made by the Department. To date 35 licences have been issued to funeral homes, with new licences issued only when an applicant provides all required documentation. It should be noted that there are funeral homes with no intention of selling prepaid funerals. As a result, compliance with the licensing component of this program is likely higher than the aforementioned would indicate.*

2. Consumer Protection Fund for Prepaid Funeral Services

It was not anticipated that any funeral home would have gone out of business before the Act was assented to, and therefore the Act *provided for payments out of the Consumer Protection Fund for funeral homes licensed under the* Act. *Obviously, since Ford's Funeral home went out of business just prior to the* Act *coming into force, it was never licensed. The retroactive amendment to the* Act *was made specifically to address the Ford's situation so its clients would be protected. We will address this issue with the Department of Justice to determine if a further amendment is required.*

2.12 Prepaid Funeral Services

The Department acknowledges that much work is required to implement and administer the Prepaid Funeral Services Program, including the establishment of policies and procedures. Significant advances have been achieved since measures were implemented to protect consumers affected by the failure of the funeral home in Port aux Basques. Funeral homes operating throughout the province have subsequently received registered notification of the requirements imposed by the Act. *The Department has delivered presentations to the general public and to an embalmers and funeral directors training seminar conducted on April 5, 2002. The Department is currently working with applicants to ensure all requirements under the* Act *are met and only then is a licence issued.*

2.13 Eastern Residential Support Board

Introduction

There are currently five entities throughout the Province which provide co-operative apartment programs for persons with developmental disabilities. The Department of Health and Community Services indicates that the co-operative apartment program provides for a private residential setting operated by an incorporated community board and staffed by a live-in supervisor and relief staff. Homes are usually rented houses and are shared by up to three adults. The program is not meant to provide permanent homes and the main emphasis is on skill teaching and support to enable more independent living. In total, these five entities were provided with $11.5 million in Government funding for the year ended 31 March 2002. One of these entities, the Eastern Residential Support Board Inc., received $9.2 million of this $11.5 million.

The Eastern Residential Support Board Inc. is located in St. John's. The Board was incorporated on 8 September 1997 under the *Corporations Act* of Newfoundland and Labrador as a non-profit organization to provide a co-operative apartment program to persons with developmental disabilities. The Board consists of twelve community based volunteers. On 28 January 1998, Eastern Residential Support Board Inc. assumed the responsibility for the management and operation of the homes under the control of the Avalon Community Accommodations Board, the Mount Pearl United Church Group Home Inc., and the Twin Cities Residential Support Board Inc. At that time, there were 38 residents in these three boards.

At March 2002 the Board was providing a co-operative apartment program for 43 residents housed in 18 units. Eastern Residential Support Board Inc. receives 100% of its funding from Government of which in excess of 95% is provided by the Department of Health and Community Services. The balance of the funding is provided by the St. John's Community Health Board. Figure 1 provides information on the total funding provided by Government and annual operating results during the last 4 years.

2.13 Eastern Residential Support Board

Figure 1

Eastern Residential Support Board Inc.
Summary of Annual Operating Results
Years Ended 31 March
($ Millions)

	2002	2001	2000	1999
Government Operating Funding	$9.2	$7.7	$7.1	$5.4
Expenses	9.2	8.4	7.2	5.7
Deficit Before Special Funding	-	(0.7)	(0.1)	(0.3)
Government Special Deficit Funding	0.7	0.6	-	-
Final Surplus (Deficit)	$0.7	$(0.1)	$(0.1)	$(0.3)
Total Government Funding	$9.9	$8.3	$7.1	$5.4
Total Number of Residents	43	44	44	40
Average Cost per Resident	$213,000	$191,000	$163,000	$143,000
Total Staff	244	251	209	189

Source: Audited Financial Statements and Board Information

As this Figure indicates, expenses over the last four years have increased considerably from $5.7 million in 1999 to $9.2 million in 2002, an increase of 61%. During this period, there was no significant increase in the number of residents.

2.13 Eastern Residential Support Board

Scope and Objectives

We completed our review of the Eastern Residential Support Board Inc. in October 2002. Our review covered the period 1 April 1999 to 31 March 2002. The objectives of our review were to assess:

- the financial position and operating results of the Board and to determine whether the Board is adequately managing the program;
- whether the Board's objectives are consistent with the objectives of the program being funded by the Department of Health and Community Services; and
- whether the Department of Health and Community Services is adequately monitoring the operations of the Board.

Conclusions

Expenditures at the Eastern Residential Support Board Inc. have increased from $5.7 million in 1999 to $9.2 million in 2002, an increase of 61%. However, during this period the number of residents remained relatively constant. Average expenditures per resident have also increased from $143,000 in 1999 to $213,000 in 2002, an increase of 49%.

Payroll costs represent 84% of total expenditures. There are no guidelines in place to determine the staffing requirements for each resident. Over the last three years, total actual staff hours have significantly exceeded budgeted staff hours. Staffing levels have increased by 55 casual/temporary positions or 29% since 1999 while the number of residents have increased by only 3.

Although the Board prepares a budget by expenditure type and by housing unit, the budget is not prepared on a timely basis. Furthermore, there is no budget prepared for each resident. As a result, the Board cannot effectively monitor planned expenditure for each housing unit and each resident so that significant cost variances can be isolated and corrective action taken on a timely basis.

The Board is not operating in accordance with the objectives of the co-operative apartment program under which it is being funded. For example, while the program is not meant to provide permanent homes to residents, no resident of the Board has left the co-operative apartment program to move to a more independent living arrangement. Furthermore, the program is not intended to provide 24 hour a day supervision; however, 40 of the 43 residents are receiving 24 hour a day supervision.

2.13 Eastern Residential Support Board

The Department is not adequately monitoring activities of the Board as it does not receive financial and performance information from the Board on a timely basis. Furthermore, there is no service agreement between the Board and the Department to outline the roles and responsibilities of each party and to provide guidance for the delivery of the co-operative apartment program.

Controls over the management of petty cash and trust accounts are not adequate.

Findings and Recommendations

Financial Position and Operating Results

The Department of Health and Community Services provides block funding to the Board and therefore, the Board can spend the funding according to its needs. Figure 2 outlines expenditures of the Board and shows that there has been a significant increase in expenditures since 1999.

Figure 2

Eastern Residential Support Board Inc.
Expenditures
Years Ended 31 March
($000's)

	2002	2001	2000	1999
Payroll	$7,669	$7,192	$6,153	$4,911
Residents' expenses	755	600	671	489
Rent	260	231	220	196
Staff travel and training	51	19	20	15
General and administrative	439	377	112	108
Total	$9,174	$8,419	$7,176	$5,719
Number of Staff	244	251	209	189
Number of Residents	43	44	44	40
Average Cost Per Resident	$213,000	$191,000	$163,000	$143,000

Source: Audited Financial Statements

2.13 Eastern Residential Support Board

As the Figure indicates, expenditures have increased from $5.7 million in 1999 to $9.2 million in 2002, an increase of 61%. During the same period, average expenditures per resident have increased from $143,000 in 1999 to $213,000 in 2002, an increase of 49%.

The Department was aware of these escalating expenditures, and as a result initiated a review of the organizational structure and program activity at the Board. The Department developed terms of reference for this review and in February 2002, a 12 person Steering Committee was established with a mandate to provide a report within four months (i.e. June 2002). The review was to look at the Board's program to ensure a fit with the approved budget and consistency with departmental goals, to consider alternate placement options for residents, and to review staff/resident ratios. As of October 2002, a report has not been completed.

During our review of Board expenditures, the following issues were identified:

1. Deficit Funding

Our discussions with officials at the Department of Health and Community Services indicated that the Department has a zero tolerance policy with respect to funding deficits relating to the co-operative apartment program. However, as Figure 1 shows, Government provided the Board with a total of $1.3 million in special deficit funding from 1999 to 2002.

2. Staffing and Payroll

Staff is comprised of permanent, part-time, and casual staff. The amount of staffing required for a particular resident is determined by a Program Committee assigned to each resident. The Program Committee is comprised of the resident's family, a behaviour management specialist, a social worker, a representative from the Board, the unit supervisor, and the individual where appropriate.

Our review of staffing and payroll indicated the following:

- Staffing levels have increased from 189 in 1999 to 244 in 2002, an increase of 55 casual/temporary positions or 29%. Board officials indicated that the increase in staff was determined necessary by the Program Committees in establishing required staff/resident ratios for each of the residents.

2.13 Eastern Residential Support Board

- Neither the Board nor the Department of Health and Community Services have guidelines in place to determine the staffing requirements for each resident. Therefore, the Program Committee has to make decisions with respect to staffing requirements for residents, without any guidelines that would help ensure consistency.

- Figure 3 indicates that in each of the last three years, total actual hours have significantly exceeded the budget. Officials at the Board indicated that the variance is due mainly to unbudgeted sick leave. Unbudgeted sick leave occurs because the original budget, in accordance with Departmental policy, provides for 7 days sick leave per employee, which is significantly less than actual. For example, for 2002 the Board indicated that the average number of sick leave days per employee was 17.

Figure 3

Eastern Residential Support Board Inc.
Budgeted Hours vs Actual Hours
Years Ended 31 March

	2002	2001	2000	1999
Budgeted hours	308,000	295,000	283,000	(Note 3)
Budgeted leave hours (Note 1)	30,000	28,000	27,000	(Note 3)
Total budgeted hours	338,000	323,000	310,000	(Note 3)
Total budgeted full-time equivalents (FTE) (Note 2)	162.5	155.29	149.04	(Note 3)
Actual hours	398,000	393,000	351,000	271,000
Total actual FTE	191.35	188.94	168.75	130.29
Difference (hours)	60,000	70,000	41,000	(Note 3)
Difference (FTE)	28.85	33.65	19.71	(Note 3)
Number of Residents	43	44	44	40

Source: Eastern Residential Support Board Financial Management System.
Note 1: Leave includes three weeks of annual leave, seven days of sick leave, and three days of family leave for each budgeted employee.
Note 2: Full-time equivalents is calculated by dividing total hours by 2080 hours.
Note 3: Budget information not available for 1999.

2.13 Eastern Residential Support Board

- The Board did not remit employee payroll deductions for a period of five months from October 2000 to February 2001. The total amount owing to the Canada Customs and Revenue Agency was $861,728 which included approximately $150,000 in penalties and fines. The Board did not have sufficient funds available to pay these payroll deductions. As a result, the Department was required to provide extra funding to enable the Board to pay the amount owing to Canada Customs and Revenue Agency.

  Our review indicated that during the summer of 2002, the Board inadvertently did not pay the employee payroll deductions by the required deadline and, as a result, the Board was assessed a penalty of $6,700.

- We selected 20 instances where leave was recorded as being taken and examined employee files to determine whether there was adequate support for the leave. Our review indicated the following:

  - In 10 instances, leave forms were not on file to support that the leave was requested and approved; and

  - In 5 instances, although there was a leave form on file, the form was not approved by the employee's supervisor.

  The Board prepares a leave status report which shows leave balances for all employees. Our review of this report indicated that, as at 31 March 2002, 19 employees had overdrawn their annual leave by a total of 493 hours or $7,372. Subsequent to 31 March 2002, the Board contacted these employees and requested that the amounts be repaid by 22 July 2002. By 30 September 2002, $2,008 was still not repaid to the Board.

  In January 2002, an employee resigned without the balance of $1,700 in overdrawn leave being recovered. As at October 2002, this individual had not repaid any of the amount owing.

- In January 2001, the position of General and Financial Manager of the Board was vacated. At this time, this position had an annual salary of approximately $60,000. The Board entered a contract with a consultant for the period 21 February 2001 to 31 August 2001 to carry out the duties of the General and Financial Manager. The Board extended this contract for a further 18 months until 31 March 2003. On an annual basis, the Board has been paying this consultant approximately $140,000. The consultant is paid at an hourly rate of $50. The Board should consider filling the position of General and Financial Manager on a permanent basis.

3. HST Rebate

The Board is entitled to a 50% rebate on all HST amounts that are paid. Our review indicated that the Board has not filed any HST forms since its inception in 1997. Although the Board was informed by its auditors of this matter in July 2001 and June 2002, as at 30 September 2002, no HST claim had been filed. Total rebates may be substantial; for example, the Board estimates a rebate of $15,145 for 2000-01.

4. Housing Unit Costs

The actual annual cost for each of the housing units and the average cost for each of the residents for the fiscal years ended 2001 and 2002 are outlined in Figure 4. As the Figure shows, the average cost per resident for the year ended 31 March 2002 was $213,355 with average costs per resident ranging from a high of $511,101 to a low of $92,093. This represents a difference of $419,008 per year between individuals in the same program.

Although the Board prepares a budget by expenditure type and by housing unit, the budget is not prepared on a timely basis. For example, as of October 2002, the Board has only prepared a draft budget for the year ended 31 March 2003. Furthermore, there is no budget prepared for each resident.

As a result, the Board cannot effectively monitor planned expenditure for each housing unit and each resident so that significant cost variances can be isolated and corrective action taken on a timely basis.

2.13 Eastern Residential Support Board

Figure 4

Eastern Residential Support Board Inc.
Cost By Housing Unit
Years Ended 31 March

	2002			2001		
	Cost per Housing Unit	Number of Residents	Average Cost per Resident	Cost per Housing Unit	Number of Residents	Average Cost per Resident
Unit 1	$563,983	2	$281,991	$540,835	2	$270,418
Unit 2	184,186	2	92,093	147,801	2	73,901
Unit 3	459,098	2	229,549	437,942	2	248,971
Unit 4	236,298	2	118,149	223,393	2	111,697
Unit 5	248,163	2	124,081	230,964	2	115,482
Unit 6	262,505	1	262,505	207,038	1	207,038
Unit 6a	511,101	1	511,101	384,715	1	384,715
Unit 7	508,392	2	254,196	283,393	1	283,393
Unit 8	822,858	2	411,429	812,035	2	406,018
Unit 9	280,179	2	140,090	245,002	2	122,501
Unit 10	623,563	3	207,854	535,494	3	178,498
Unit 11	509,432	2	254,716	435,648	2	217,824
Unit 12	630,959	3	210,320	646,591	3	215,530
Unit 13	762,886	4	190,721	682,269	4	170,567
Unit 14	430,211	2	215,105	375,933	2	187,967
Unit 15	377,143	3	125,715	327,393	3	109,131
Unit 16	539,700	2	269,850	508,443	2	254,222
Unit 17	484,753	2	242,376	432,393	2	216,197
Unit 18	738,854	4	184,714	719,757	4	179,939
Unit 19	-	Unit Sold	-	241,496	2	120,748
Total	**$9,174,264**	**43**	**$213,355**	**$8,418,535**	**44**	**$191,330**

Source: Audited Financial Statements and Eastern Residential Support Board Inc.'s Financial Management Information System

5. Petty Cash

Each housing unit has a petty cash fund, the balance of which is determined by the Program Committees. The petty cash funds are used to purchase, for the residents, such items as groceries, outings, clothing, transportation and cleaning supplies. Petty cash amounts are distributed to the 18 housing units on a bi-weekly basis. Before petty cash funds are replenished by the Board, the unit supervisor is required to provide a listing of petty cash expenses along with supporting receipts.

The amount of petty cash distributed to the units each year totals approximately $290,000. As Figure 5 indicates, the average petty cash expenses per resident during the year ended 31 March 2002 was $6,729. On a per resident basis, the petty cash ranged from a high of $13,533 to a low of $4,868.

We visited 10 units (Units 1, 2, 5, 6a, 7, 8, 10, 12, 13, and 14) and examined documentation relating to petty cash funds. Our review indicated that controls over petty cash were inadequate. For example:

- Access to petty cash was not restricted to one individual who could be held accountable for these monies. All staff at the 10 housing units had access to the petty cash funds. Although at 4 of the units, petty cash funds were maintained in locked offices or cash cans, all staff had access to the keys. At the other 6 units, petty cash funds were not secured in any locked areas or containers.

- Good accounting practice would require that expenditures are recorded as incurred. Our review disclosed that there was no consistent approach used by the housing units to record petty cash disbursements. All units prepared a listing of these disbursements on a bi-weekly basis for reimbursement purposes. Four of the units only record disbursements when required for reimbursement, while in the other 6 units, disbursements were recorded as incurred. However, in 5 of the 6 units where disbursements were recorded, the information did not agree with the petty cash funds that were supposed to be on hand.

- A reconciliation of petty cash is a good control to ensure that all funds are accounted for; however, it does not ensure that all expenditures are authorized and legitimate. Although staff prepare a listing of petty cash expenses for reimbursement purposes, regular reconciliations are not prepared which would ensure that the total of receipts and cash on hand agree with the established petty cash fund balance.

  Our attempt to reconcile petty cash funds indicated that at 8 of the 10 units, petty cash and receipts did not agree with the amount required to be on hand. In these cases, the differences ranged from $2 to $65.

- The payment of any expenditure should be supported by original receipts from suppliers to document the legitimacy of the expenditures. Our review disclosed that hand written documents prepared by staff were being submitted from the housing units as support for expenditures. As a result of inadequate documentation identified during our review at the 10 units, we examined a further 12 petty cash expense reports submitted to the Board office and found similar issues. Examples of purchases where hand written documents were prepared by staff included a used CD player, fast food items, used cookware, and expenses relating to outings. As a result, we were unable to determine the legitimacy of these expenditures.

The Board has not established any guidelines to adequately control petty cash. These guidelines would be expected to address areas such as: access to petty cash; recording disbursements; reconciliation of petty cash balances; documentation requirements; and restrictions over type and amount of individual disbursements. In the absence of such guidelines, petty cash is used at the discretion of staff of the housing units.

2.13 Eastern Residential Support Board

Figure 5

Eastern Residential Support Board Inc.
Petty Cash
31 March 2002

	Amount	Number of Residents	Average per Resident
Unit 1	$15,548	2	$7,774
Unit 2	9,737	2	4,868
Unit 3	13,416	2	6,708
Unit 4	10,114	2	5,057
Unit 5	10,192	2	5,096
Unit 6	7,202	1	7,202
Unit 6a	13,533	1	13,533
Unit 7	14,820	2	7,410
Unit 8	23,816	2	11,908
Unit 9	10,166	2	5,083
Unit 10	20,618	3	6,873
Unit 11	15,106	2	7,553
Unit 12	16,900	3	5,633
Unit 13	21,840	4	5,460
Unit 14	16,068	2	8,034
Unit 15	17,784	3	5,928
Unit 16	16,068	2	8,034
Unit 17	13,728	2	6,864
Unit 18	22,698	4	5,674
Total	**$289,354**	**43**	**$6,729**

Source: Eastern Residential Support Board Inc.

6. Trust Accounts

In July 2001, the Board established a trust account for residents who were unable to maintain their own bank accounts. The majority of the funds are received from residents' families, payments from the Federal government, and personal care allowances. These trust funds are not owned by the Board, but are the property of the residents and have been assigned to the Board as trustee. As a result, the Board is accountable to the residents for the use and disposition of the trust funds. At September 2002, the Board had approximately $24,000 in trust funds.

Our review indicated that no guidelines have been established for the management of trust funds and that controls over these funds were not adequate. For example:

- The preparation of monthly bank and trust account reconciliations would ensure that the balance of trust funds held in the bank is the same as both the cash balance and trust account balance recorded in the accounts of the Board. However, bank and trust account reconciliations have not been completed since the trust account was established in July 2001.

  We performed a reconciliation for the period July 2001 to March 2002 and found two deposits totalling $135 which, although deposited into the trust bank account, had not been posted to a resident trust account. Discussions with Board staff indicated that they could not identify which resident owned the money. Subsequent to our review, Board staff identified the resident who owned the $85 and also determined that the remaining $50 belonged to the Board.

- Appropriate documentation should be maintained on file to support all disbursements of trust funds. Our review of trust disbursements totalling $3,200 from July 2001 to September 2002 indicated that there was no support for disbursements totalling $700. Board staff did not know what the $700 was used for. Subsequent to our review, Board staff provided support for $654 of the $700.

- In August 2000 (before the trust bank account was established), one resident received $6,550 which was deposited into the Board's general bank account. The remaining funds belonging to this resident were not transferred to the trust bank account until July 2002. In the interim, the resident's money was used for the general operation of the Board. No interest was paid to the resident's trust account for the period the money was used by the Board.

- Our review identified bank accounts for five residents which had originally been administered by the predecessor boards. Board officials could not identify signing authorities for three accounts and staff with signing authorities for the remaining two accounts no longer worked at the Board.

  Although the trust bank account was established in July 2001, the balances in these five accounts, totalling approximately $10,000, were not transferred to the Board's trust bank account until May 2002. Our review of expenditures totalling $2,150 from these five accounts indicated that there was no support for two disbursements totalling $1,290. Board officials did not know what the $1,290 was used for.

7. Selection of Housing Units

As at 31 March 2002, the Board had 18 housing units available for the 43 residents. One of these units is owned by the Board and the remaining 17 units are rented.

There are no policies in place for the selection of housing units, including unit specifications (e.g. size, location, age), whether a unit should be purchased or rented, the maximum amount to be funded, the duration of a rental agreement, and conflict of interest situations. In the absence of such policies, the basis upon which housing units are selected may not be consistent.

Our review also identified the following:

- Of the 17 housing units rented by the Board, 16 are single family homes with annual rental costs ranging from $9,120 to $19,788. The remaining housing unit is a duplex with a total annual rental cost of $28,200. There are no current rental agreements in place for 12 of these 17 units.

- Board officials informed us that there was a union representative participating on a Committee which was reviewing staffing ratios. As a result of their participation on this Committee, the union representative became aware of the Board's intention to rent a particular housing unit. Subsequently, the spouse of the union representative purchased that housing unit and entered into a rental agreement for the unit with the Board. The unit is being rented at an annual cost of $28,200 for a period of five years and is the only rental agreement exceeding a two year duration.

- In November 1999, the Board purchased a housing unit at the direction of the Department of Health and Community Services for $92,500. The Board purchased this house to meet the particular needs of an individual who had applied for a placement in the Program. Subsequent to the purchase of the house, the individual's family determined that the location of the housing unit was unsuitable and rescinded their application to the Program. The Board owned and used this unit for approximately two years, and during this time spent an additional $22,000 on renovations and repairs. As the location of this housing unit continued to be unsuitable for any of the residents, the Board made a decision to sell the house in October 2001 for $65,000.

8. Financial Management Information Systems

The Board has two computerized systems for use in recording and reporting its financial transactions. One system is used as the main financial reporting system, and the other is used to record detailed payroll transactions.

Our review of these systems indicated the following:

- The financial reporting system in use is not adequate to meet the information needs of the Board. For example, cash flow reports produced by the system require significant adjustments, payroll reports do not provide the required information for detailed analysis, and reports cannot be produced that compare budgeted expenditures to actual. In addition, as the two systems are not integrated, summary payroll information has to be input into the financial reporting system. This results in a duplication of effort and an increase in the risk of errors.

- Although general bank account reconciliations are prepared, Board staff do not utilize the bank reconciliation function available in the financial reporting system which would improve the efficiency of the reconciliation process.

- Reports generated by the financial reporting system are not accurate. Adjusting journal entries made by the Board's external auditors are not entered in the financial reporting system. As a result, financial reports produced by the system are inaccurate.

2.13 Eastern Residential Support Board

Program Objectives

Eastern Residential Support Board Inc. is a co-operative apartment program funded by Government to provide a private residential setting for persons with developmental disabilities. During our review of the Board's mandate and the program objectives as set by the Department of Health and Community Services, we identified the following issues:

- Although Schedule A of the Board's Certificate of Incorporation includes a restriction which states that the Board is *"To prepare and plan for less restrictive residential alternatives for eventual replacement of residents"*, the Board has not formulated a planning process to address this requirement. Furthermore, although the Department places emphasis on preparing an individual for independent living, this concept is not referred to in either the Board's Mandate Statement or Philosophy Statement and does not appear to be one of the Board's objectives. This is further evidenced by the fact that, since the Board's establishment in September 1997, no resident of the Board has left the co-operative apartment program to move to a more independent living arrangement.

- Departmental policy states that individuals would be eligible for the co-operative apartment program if the *"... developmental and/or behavioural needs of the individual are such that 24 hour per day supervision is not required."* However, the Board is not following this requirement in that 40 of the 43 residents are receiving 24 hour a day supervision.

- Schedule A of the Board's Certificate of Incorporation indicates that the Board *"Shall not permit its directors, trustees, officers or employees to be comprised so that a majority of the same are related or do not deal at arms length"*. As at 31 March 2002, 5 of the 12 board members are related to residents. Two of these 5 Board members include the Chairperson and the Secretary of the Board. The Department and the Board should be aware of potential conflict of interest issues which may result with the current Board composition. The Board has not established guidelines to address potential conflict of interest issues.

It is clear that the Board is not operating in accordance with the objectives of the co-operative apartment program under which it is being funded. Although the Department of Health and Community Services provides a significant amount of funding to the Board each year, it is not enforcing compliance with the objectives of the co-operative apartment program.

Monitoring and Reporting

To effectively manage its program, the Board and the Department require complete and timely information on how funds are utilized to meet program objectives. Given the significant increases in expenditures and required Government funding since the Board was established in 1997, the requirement to provide such information becomes more significant.

Our review disclosed that the Department is not adequately monitoring activities of the Board. For example:

- Quarterly financial information is not being submitted as required by the Department. As a result, the Department is not aware of the Board's financial position throughout the year. Financial information is usually provided to the Department only when the Board is requesting funding. We did note that audited financial statements were provided to the Department for the fiscal years ended in 2001 and 2002 on a timely basis.

- Budgets are not prepared on a timely basis. For example, although the budget for the 2002 fiscal year was required to be provided to the Department in the fall of 2000, it was not submitted until July 2001 (i.e. over three months into the fiscal year). This budget was not approved until November 2001. As of October 2002, only a draft budget for the 2003 fiscal year had been submitted to the Department. The Board's final budget was required to be provided to the Department in the fall of 2001.

- There is no service agreement between the Board and the Department to outline the roles and responsibilities of each party and to provide guidance for the delivery of the co-operative apartment program. The other four boards funded under this program do have service agreements in place. As a result, there is no formal requirement for the Board to report on its use of Government funding and its progress towards achieving program objectives. Our review disclosed the Board is not being held accountable as it is not providing performance information to the Department or the House of Assembly on a regular basis.

2.13 Eastern Residential Support Board

Recommendations

Eastern Residential Support Board, Inc.

The Board should:

- *prior to the commencement of each fiscal year, prepare a budget for each unit and for each resident, monitor actual expenditures against these budgets, and take corrective action where applicable;*

- *review its objectives in conjunction with the Department of Health and Community Services;*

- *improve controls over the management of petty cash and trust accounts;*

- *develop comprehensive guidelines for such areas as the selection of housing units and the determination of staffing requirements;*

- *review its financial reporting systems to determine whether these systems are producing the necessary information to manage Board operations; and*

- *ensure that all rental units have current lease agreements.*

Department of Health and Community Services

The Department should:

- *ensure that there is consensus in program objectives between the Department and the Board;*

- *enter into a service agreement with the Board which would outline the roles and responsibilities of each party and provide guidance for the delivery of the co-operative apartment program; and*

- *ensure that financial and performance information is received from the Board on a timely basis.*

Board's Response

Financial Position and Operating Results

As noted in Figure 2, there has been a significant increase in expenditures. The major portion of the increase is payroll. Throughout 1999/00 and 2000/01 the Board accepted several individuals from the community and a number of individuals from the Right Futures Project. Payroll costs relating to additional residents are significant in this program. As well, the Pre-Vocational Centre closed during this period resulting in increased staffing levels for those residents affected by the closure. There were also a number of salary increases throughout this period as well as a classification review increase.

The Steering Committee established as a result of these escalating expenditures has not completed a formal report, however, the direction of the review is being carried out by the Board.

Staffing and Payroll

A consultant was contracted for $50 per hour, inclusive of benefits, to perform the duties of General and Financial Manager. This was necessary to address a number of significant operational issues with the Board.

The Board utilizes certain criteria through its Program Committees to determine staffing requirements. While there is no formalized set of documents, a program committee comprised of a number of appropriate individuals does evaluate a resident's behaviours using past and current information to approve determined staffing. However, the Board will develop a more formalized written set of guidelines for the determination of staffing requirements.

HST Rebate

The Board's records are such that HST has to be determined manually by reviewing each invoice. The Board has completed and forwarded the years 1 April 1998 to 31 March 1999, 1 April 2000 to 31 March 2001, and 1 April 2001 to 31 March 2002 to Canada Customs and Revenue Agency for refund subsequent to this review. The remaining year, 1 April 1999 to 31 March 2000, will be forwarded prior to 31 March 2003. The Board's new financial reporting system will allow the recording of HST for refund application as invoices are paid.

2.13 Eastern Residential Support Board

Housing Units

The 1 April 2002 to 31 March 2003 budget was approved at the Board meeting of 1 October 2002. Resource constraints and the need to address other issues delayed the timely budget submission to the Department of Health and Community Services for the 2002/03 year. In future, the Board will prepare a budget for each unit prior to the commencement of each fiscal year. Also, to the extent that it is practical and functional, budgets for each resident will also be prepared.

Petty Cash

The Board will further develop controls to better manage petty cash.

Trust Accounts

The Board has already brought under its control resident accounts where trust accounts are required and manages those trust accounts in accordance with normal trust account guidelines. The Board will ensure that a periodic reconciliation between the trust bank account and the individual trust account records is completed and will implement any further controls the Board believes necessary.

Selection of Housing Units

The Board makes note that six committees had already been established to address board issues, one of which is a Housing Committee. This committee does have guidelines. However, the Board will develop a more formalized written set of guidelines for the selection of housing units.

The Board does have lease agreements in place for most of its units. However, most of these leases have expired. The Board is maintaining these leases on a month-to-month basis in accordance with the Residential Tenancies Act.

Financial Management Information Systems

The Board has in fact been reviewing its financial reporting systems. The Board had previously determined that the current financial reporting system does not adequately meet the financial reporting requirements of the Board and had engaged the services of a financial and accounting consulting firm to review the Board's financial system in early 2002. A new financial reporting system is currently in the process of being implemented and the Board hopes to have it operational by 1 April 2003.

2.13 Eastern Residential Support Board

Program Objectives

Through the current program review process, the Board will review its objectives with the Department of Health and Community Services to ensure the Board is fulfilling its mandate as directed by the Department.

Department's Response

The policy direction for the Cooperative Apartment Program has changed significantly since the closure of group homes for persons with developmental disabilities. Because of the closure of group homes, the Cooperative Apartment Program has become the most highly structured residential program available and provides support to persons requiring 24 hour supervision. The program has incorporated many policies from other sections of the policy manual. The Department will revise the policy standards manual for the Cooperative Apartment Program in the next 12 months.

Eastern Residential Support Board was formed in 1998 from three boards which were providing services in a similar manner. The Department concurred with the amalgamation of the three organizations to become Eastern Residential Support Board. The assets and liabilities of the three boards became the responsibility of the Eastern Residential Support Board and so did their service agreements. The Department will work with the board over the next year to develop a new service agreement.

As noted by the Auditor General, the Department of Health and Community Services has been working in conjunction with the Eastern Residential Support Board and Health and Community Services St. John's Region to review the organizational structure and program activity. While no formal report has been issued to date, all parties have agreed to structural changes in the program.

The department's inability to adequately monitor activities of the board is also due to an insufficient number of staff assigned to this work. This situation has arisen due to fiscal restraints on the department's salary budget. The department will endeavour to obtain additional resources for budget monitoring activities. With respect to financial and performance reporting, the department will hold the board accountable for submitting information on a timely basis.

2.13 Eastern Residential Support Board

2.14 Monitoring Health and Community Services Boards

Introduction

There are four health and community services boards in the Province comprised of St. John's, Eastern, Central and Western Regions. Each of these boards has local offices throughout the Province. Health and Community Services in Northern Newfoundland and Labrador are administered as separate components of the Grenfell Regional Health Services Board and the Health Labrador Corporation, respectively.

The health and community services boards provide traditional community health services including health promotion and protection, mental health services, continuing care, and immunization services. In addition, community service programs including Child Welfare, Community and Corrective Services, and Family Rehabilitative Services, are delivered under the health and community services boards.

The financial position of the four community services boards has been deteriorating over the past several years. In an effort to control operating deficits, boards have implemented changes to reduce costs and Government has provided additional funding. As a part of our audit work, we continue to monitor the financial position and results of operations of the four community services boards.

Conclusion

The financial position and operating results of the four health and community service boards is continuing to deteriorate even though funding has increased substantially. The total net liabilities of the four boards increased from $19.8 million at 31 March 2001 to $22.2 million at 31 March 2002. These net liabilities will eventually have to be funded by Government.

Government funding provided to the boards increased from $165.3 million in 2000-01 to $183.8 in 2001-02. Although additional funding of $18.5 million was provided over the previous year's amount, these boards still incurred operating deficits totalling $3.1 million for the year ended 31 March 2002.

Observations

Financial Position

Our review of the health and community service boards' financial position in 2002 included an assessment of the financial results and the financial position of the four boards for the three years ended 31 March 2002, 2001 and 2000.

2.14 Monitoring Health and Community Services Boards

Information on the financial position of the four boards is outlined in Figure 1. This Figure indicates that the financial position of the four boards in 2001-02 continued to deteriorate. The total net liabilities of the four boards have increased from $19.8 million in 2001 to $22.2 million in 2002. These net liabilities of $22.2 million will eventually have to be funded by Government.

Figure 1

Health and Community Services Boards
Summary of Financial Position
31 March
($ Millions)

	2002					2001	2000
	St. John's	Eastern	Central	Western	Total	Total	Total
(Bank Indebtedness) Cash	(1.6)	(5.9)	(2.9)	1.1	(9.3)	(7.5)	0.0
Accounts Payable	(4.7)	(1.9)	(1.7)	(1.8)	(10.1)	(6.8)	(6.1)
Less: Accounts Receivable	3.0	3.6	2.7	1.8	11.1	7.0	7.4
Net Liability	**(3.3)**	**(4.2)**	**(1.9)**	**1.1**	**(8.3)**	**(7.3)**	**1.3**
Long-term Debt	(0.6)	(0.1)	-	-	(0.7)	(0.7)	(0.7)
Severance Pay	(3.1)	(2.0)	(1.9)	(2.0)	(9.0)	(8.2)	(6.7)
Vacation Pay	(1.3)	(1.1)	(0.8)	(1.0)	(4.2)	(3.6)	(3.1)
Total Unfunded Liabilities	**(8.3)**	**(7.4)**	**(4.6)**	**(1.9)**	**(22.2)**	**(19.8)**	**(9.2)**

Source: Audited Financial Statements

We also note the following regarding the financial position of the boards:

- Three of the four boards had bank overdrafts as at 31 March 2002 totalling $10.4 million to finance a part of their operations. The cash positions ranged from $1.1 million on deposit for Western Health and Community Services Board to an overdraft of $5.9 million for Eastern Health and Community Services Board.

- Total net current liabilities of $8.3 million as at 31 March 2002 represent the amount by which the boards' current liabilities exceed the liquid (cash convertible) assets. The boards went from total net current liabilities of $7.3 million in 2001 to total net current liabilities of $8.3 million in 2002. This amount has not been funded by the Department of Health and Community Services.

- After adding long-tem debt, severance pay and vacation pay liabilities, Figure 1 shows that the total amount of funding required to meet the total net liabilities of these four boards as at 31 March 2002 totalled $22.2 million. This represents an increase from the $19.8 million reported in 2001.

The $22.2 million in total net liabilities as at 31 March 2002 will be affected by the results of current operations and the level of funding by Government. If the boards have annual operating surpluses in the future, these surpluses could be used to fund their liabilities. If, on the other hand, the boards have annual operating deficits, these deficits, along with the liabilities, will eventually have to be funded by Government.

Operating Results

Figure 2 outlines the annual results of operations for the four health and community services boards for the years ended 31 March 2002, 2001 and 2000.

Figure 2

Health and Community Services Boards
Summary of Annual Operating Results
Years Ended 31 March
($ Millions)

	St. John's		Eastern		Central		Western		Total		
	2002	2001	2002	2001	2002	2001	2002	2001	2002	2001	2000
Revenue											
Provincial	69.7	63.1	41.0	35.0	38.9	34.1	34.2	33.1	183.8	165.3	149.7
Board fund grant	-	-	0.1	0.1	0.1	0.3	0.3	0.3	0.5	0.7	0.3
Other	0.3	0.3	0.0	0.0	0.3	0.1	0.0	0.2	0.6	0.6	0.7
	70.0	63.4	41.1	35.1	39.3	34.5	34.5	33.6	184.9	166.6	150.7
Expenses			(Note)								
Administration	5.4	5.2	4.2	3.8	3.6	3.9	3.0	2.9	16.2	15.8	14.2
Programs	64.9	62.0	37.6	34.0	35.6	32.7	32.1	31.5	170.2	160.2	139.4
	70.3	67.2	41.8	37.8	39.2	36.6	35.1	34.4	186.4	176.0	153.6
Deficit before non-shareable expenses	(0.3)	(3.8)	(0.7)	(2.7)	0.1	(2.1)	(0.6)	(0.8)	(1.5)	(9.4)	(2.9)
Non-shareable expenses	0.4	0.6	0.4	0.7	0.3	0.6	0.5	0.3	1.6	2.2	1.7
Deficit after non-shareable expenses	(0.7)	(4.4)	(1.1)	(3.4)	(0.2)	(2.7)	(1.1)	(1.1)	(3.1)	(11.6)	(4.6)

Source: Audited Financial Statements and Department of Health and Community Services
Note: Allocation of expenses between administration and client services is estimated based on previous years allocation as the current financial statements do not show the allocation.

As Figure 2 indicates, all four boards incurred operating deficits in 2001-02 ranging from $0.2 million to $1.1 million. Annual operating results for these four boards have deteriorated since 1998 when only one of the boards, the Central Regional Health and Community Services Board, reported a deficit of $200,000.

Figure 2 also indicates that all four boards incurred operating deficits totalling $3.1 million in 2001-02 even though total Government funding had increased by $18.5 million from the previous year.

2.14 Monitoring Health and Community Services Boards

Department's Response

The Department shares the concerns of the Auditor General regarding financial performance and fiscal stability of the community health boards in this province. This issue is not unique to the province of Newfoundland and Labrador. The provinces and territories have been struggling with steady increases in operating costs, while the Federal government has provided limited increases in funding for health services. On September 11, 2000, however, the First Ministers reached an agreement on additional funding for health and other social programs which will increase federal transfers to the Province over the next six years. The province is still concerned, however, that the amount committed does not restore the federal share of funding to the amounts received in the early 1990's.

The Department has also undertaken numerous initiatives to alleviate the financial concerns related to the health and community services boards:

- *The Department improved the financial position of these boards by providing them stabilization funding totalling $6 million for operating purposes in the fiscal year 2001/02 to improve their fiscal stability.*

- *The Minister of Health and Community Services delivered and participated in a series of Health Forums around the province in the fall of 2001. This process resulted in significant feedback for the development of the Strategic Health Plan, which was released in the fall of 2002. One of the major long term goals of this plan is to improve the sustainability of health services, especially during a time of such fiscal restraint.*

- *The Department has established a Performance Measurement MIS Indicator Working Group, a subcommittee of the Performance Measurement and Reporting Advisory Committee. Their objective is to develop an operational plan to utilize the information in the provincial MIS database for comparative reporting and analysis across all health boards.*

- *The Department has invested much time and effort into developing a new Accountability Framework for the Department and the Health and Community Services Boards. This new Framework has resulted in several new partnership initiatives related to improving accountability, funding, budgeting, and reporting issues of the Department and its boards. Some of these initiatives are summarized below:*

  - *The Department seconded a Chief Executive Officer of one of the Health and Community Services boards to begin application of the provincial government Accountability Framework to the health sector.*
  - *The Department created a Health and Community Services Planning Committee. This Committee is co-chaired by the Deputy Minister and a Chief Executive Officer of one of the boards. This Committee's mandate is to ensure the appropriate integration of existing and new processes for strategic planning, budget and operational planning, accountability, information and communications technology, and issue based and sectoral planning.*

- *The Department, in partnership with the boards, developed a process for monitoring fiscal results of the boards throughout the year. This Budget Monitoring reporting requirement was effective for the 2000/01 fiscal year. Boards are now required to submit detailed financial and statistical data on a monthly basis, which include actual to budget analysis, and current year vs. prior year analysis, projected deficit to the end of the fiscal year, as well as narrative explanations for fluctuations in the variances.*

- *The Department is also working with the regional boards to improve the availability of relevant information needed to plan, monitor and evaluate the community health sector. As part of this objective, the Department is currently restructuring the Chart of Accounts for the Health and Community Services sector. This restructuring will move us closer to becoming nationally compliant which will allow us to be comparable to other provinces across the country.*

- *The Department is also developing information systems to improve service delivery. The Client Registration and Pay System will provide staff, managers and executive, both in the regions and the Department, with the program and financial information needed to manage the delivery of services.*

2.15 Monitoring Hospital Boards

Introduction

From 1 November 1994 to 1 January 1996 the Government of Newfoundland and Labrador established eight regional health care institutions boards to administer health care facilities in Newfoundland and Labrador. These boards took over the facilities previously administered by many small local boards.

The financial position of the eight hospital boards has been deteriorating over the past several years. In an effort to control operating deficits, boards have implemented changes to reduce costs and Government has provided additional funding. As a part of our audit work, we continue to monitor the financial position and results of operations of the eight hospital boards.

Conclusions

The financial position of the eight hospital boards is continuing to deteriorate even though funding has increased substantially. The total net liabilities of the eight boards has increased from $366.1 million at 31 March 2001 to $391.3 million at 31 March 2002. These net liabilities will eventually have to be funded by Government.

Government funding provided to the boards increased from $692.7 million in 2000-01 to $784.9 million in 2001-02. Although additional funding of $92.2 million was provided over the previous year's amount, these boards still incurred operating deficits totalling $16.5 million for the year ended 31 March 2002.

Observations

Financial Position

Our review of the hospital boards' financial position included an assessment of the financial results and the financial position of the eight boards for the three years ended 31 March 2002, 2001 and 2000. Information on the financial position of the eight hospital boards is outlined in Figure 1. This Figure indicates that the financial position of the eight hospital boards in 2001-02 continued to deteriorate. The total net liabilities of the eight boards have increased from $366.1 million in 2001 to $391.3 million in 2002. These net liabilities of $391.3 million will eventually have to be funded by Government.

Figure 1

Hospital Boards
Summary of Financial Information
31 March
($ Millions)

	St.John's	Avalon	Peninsula	Central East	Central West	Western	Grenfell	Labrador	Total 2002	Total 2001	Total 2000
Cash on Hand (Bank Indebtedness)	(8.2)	(8.0)	(9.6)	(6.1)	2.1	(17.8)	(0.6)	(8.9)	(57.1)	(44.9)	(11.4)
Accounts payable	(34.1)	(2.8)	(5.1)	(5.6)	(8.5)	(11.9)	(3.1)	(3.8)	(74.9)	(68.6)	(62.1)
Current LTD	(1.7)	(0.5)	(0.6)	(0.3)	(0.4)	(0.2)	-	-	(3.7)	(3.2)	(3.4)
Less: A/R	24.4	4.2	4.9	3.5	6.0	9.0	3.5	4.5	60.0	51.3	54.4
Net Liability	(19.6)	(7.1)	(10.4)	(8.5)	(0.8)	(20.9)	(0.2)	(8.2)	(75.7)	(65.4)	(22.5)
Long-term debt	(149.5)	(7.5)	(5.6)	(3.5)	(15.2)	(4.0)	-	(1.3)	(186.6)	(181.6)	(155.1)
Severance pay	(47.4)	(6.4)	(5.0)	(7.2)	(8.3)	(16.1)	(3.7)	(2.8)	(96.9)	(89.8)	(82.4)
Vacation pay	(12.3)	(2.7)	(2.4)	(3.0)	(3.8)	(4.3)	(2.1)	(1.5)	(32.1)	(29.3)	(26.0)
Total unfunded liabilities	(228.8)	(23.7)	(23.4)	(22.2)	(28.1)	(45.3)	(6.0)	(13.8)	(391.3)	(366.1)	(286.0)

Source: Audited Financial Statement except unaudited for 31 March 2002 for Board 1, Health Care Corporation of St. John's.

We also note the following regarding the financial position of the boards:

- As at 31 March 2002, the cash positions of the boards varied with seven of the eight boards reporting bank overdrafts totalling $59.2 million. The cash positions ranged from $2.1 million on deposit for the Central West Health Care Corporation to an overdraft of $17.8 million for the Western Health Care Corporation.

- The boards are reporting a combined net current liability of $75.7 million as at 31 March 2002, which represents the amount by which their suppliers' credit and current portion of long term debt exceed their liquid (cash convertible) assets. This amount has not been funded by the Department of Health and Community Services.

- After adding long-tem debt, severance pay and vacation pay liabilities, Figure 1 shows that the total amount of funding required to meet the total net liabilities of these eight boards as at 31 March 2002 totalled $391.3 million. This represents an increase from the $366.1 million reported in 2001.

- Of the $186.6 million in long-term debt, $149.5 million relates to the Health Care Corporation of St. John's.

The $391.3 million in total net liabilities as at 31 March 2002 will be affected by the results of current operations and the level of funding by Government. If the boards have annual operating surpluses in the future, these surpluses could be used to fund their liabilities. If, on the other hand, the boards have annual operating deficits, these deficits, along with the liabilities, will eventually have to be funded by Government.

Operating Results

Figure 2 outlines the annual results of operations for the eight hospital boards for the three years ended 31 March 2002, 2001 and 2000.

Figure 2

Hospital Boards
Summary of Annual Operating Results
Years Ended 31 March
($ Millions)

	St.John's	Avalon	Peninsula	Central East	Central West	Western	Grenfell	Labrador	Total 2002	Total 2001	Total 2000
Revenue											
Provincial	347.5	50.1	58.8	56.9	71.3	121.5	36.1	42.7	784.9	692.7	651.6
Other	44.4	4.4	4.6	5.6	6.8	14.2	3.1	3.3	86.4	83.9	74.5
	391.9	54.5	63.4	62.5	78.1	135.7	39.2	46.0	871.3	776.6	726.1
Expenses											
Administration	87.6	18.0	19.0	20.2	25.0	42.7	11.2	11.1	234.8	222.1	213.9
Programs	289.4	37.1	42.7	42.1	52.8	92.2	28.6	35.6	620.5	579.5	521.8
Interest on LTD	9.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	9.8	8.0	0.7
Other	3.4	0.0	0.6	0.0	0.1	1.3	0.0	0.7	6.1	7.2	7.9
	390.2	55.1	62.3	62.3	77.9	136.2	39.8	47.4	871.2	816.8	744.3
Deficit before non-shareable expenses	1.7	(0.6)	1.1	0.2	0.2	(0.5)	(0.6)	(1.4)	0.1	(40.2)	(18.2)
Non-shareable expenses	6.5	1.1	1.3	1.6	3.2	2.0	0.4	0.5	16.6	19.9	15.4
Deficit after non-shareable expenses	(4.8)	(1.7)	(0.2)	(1.4)	(3.0)	(2.5)	(1.0)	(1.9)	(16.5)	(60.1)	(33.6)

Source: Audited Financial Statements except unaudited for 31 March 2002 for Board 1, Health Care Corporation of St. John's

As Figure 2 indicates, all eight hospital boards incurred operating deficits totalling $16.5 million in 2001-02 even though total Government funding had increased by $92.2 million from the previous year.

Department's Response

The Department shares the concerns of the Auditor General regarding financial performance and fiscal stability of the institutional and integrated health boards in this province. This issue is not unique to the province of Newfoundland and Labrador. The provinces and territories have been struggling with steady increases in operating costs, while the Federal government has provided limited increases in funding for health services. On September 11, 2000, however, the First Ministers reached an agreement on additional funding for health and other social programs which will increase federal transfers to the Province over the next six years. The province is still concerned, however, that the amount committed does not restore the federal share of funding to the amounts received in the early 1990's.

The Department has also undertaken numerous initiatives to alleviate the financial concerns related to the boards:

- *The HayGroup Operational Review was commissioned by the Minister of the Department of Health and Community Services in November 2001. The Health Care Corporation of St. John's will use the results of this review to be a more effective and efficient organization. The Corporation continues to improve the quality of their health services, while at the same time they are improving their financial position. They are also in the process of developing a plan to repay their accumulated operating deficit.*

- *The Minister of Health and Community Services delivered and participated in a series of Health Forums around the province in the fall of 2001. This process resulted in significant feedback for the development of the Strategic Health Plan, which was released in the fall of 2002. The plan will enable boards to improve the financial sustainability of health services and develop plans to repay their accumulated operating deficits.*

- *The Department has established a Performance Measurement MIS Indicator Working Group, a subcommittee of the Performance Measurement and Reporting Advisory Committee. Their objective is to develop an operational plan to utilize the information in the provincial MIS database for comparative reporting and analysis across all health boards.*

2.15 Monitoring Hospital Boards

- *The Department continues to work with the boards to achieve balanced budget positions. To ensure that these requirements are met, boards have implemented more stringent budgeting and financial management initiatives and have improved their monthly and annual reporting requirements.*

- *The Department has invested much time and effort into developing a new Accountability Framework for the Department and the Health Boards. This new Framework has resulted in several new partnership initiatives related to improving accountability, funding, budgeting, and reporting issues of the Department and its health boards. Some of these initiatives are summarized below:*

    - *The Department seconded a Chief Executive Officer of one of the Health and Community Services boards to begin application of the provincial government Accountability Framework to the health sector.*

    - *The Department created a Health and Community Services Planning Committee. This Committee is co-chaired by the Deputy Minister and a Chief Executive Officer of one of the boards. This Committee's mandate is to ensure the appropriate integration of existing and new processes for strategic planning, budget and operational planning, accountability, information and communications technology, and issue based and sectoral planning.*

    - *The Department, in partnership with the boards, developed a process for monitoring fiscal results of the boards throughout the year. This Budget Monitoring reporting requirement was effective for the 2000/01 fiscal year. Boards are now required to submit detailed financial data on a monthly basis, which include actual to budget analysis, and current year vs. prior year analysis, projected deficit to the end of the fiscal year, as well as narrative explanations for fluctuations in the variances.*

2.16 Residents' Trust Accounts

Introduction

The Provincial Health Care Institutions and the Department of Health and Community Services administer a number of trust funds on behalf of residents in nursing homes or other health care facilities. Trust funds are not owned by the Institution or the Department but are the property of these residents and have been assigned to the Institutions and the Department as "trustee" for administration under an agreement or policy. As a result, the Institutions and the Department are accountable to these residents for the use and disposition of the trust assets and any funds derived from trust activities. As shown in Figure 1, the Provincial Health Care Institutions and the Department of Health and Community Services held $3.5 million in residents' trust accounts at 31 March 2002 ($3.6 million 31 March 2001).

Figure 1

Residents' Trust Accounts
Health Care Institutions and the
Department of Health and Community Services
31 March

Health Institution	2002	2001
St. John's Nursing Home Board	$586,000	$ 722,000
Department of Health and Community Services	646,000	645,000
Health Care Corporation of St. John's	658,000	612,000
Western Health Care Corporation	420,000	469,000
Central West Health Corporation	364,000	358,000
Avalon Health Care Institutions Board	282,000	303,000
Peninsulas Health Care Corporation	228,000	218,000
Central East Health Care Institutions Board	171,000	187,000
Health Labrador Corporation	92,000	77,000
Eastern Regional Health and Community Services Board	37,000	40,000
Total	**$3,484,000**	**$3,631,000**

Source: Audited Financial Statements

2.16 Residents' Trust Accounts

Scope and Objectives

We completed our review of trust funds administered by the Provincial Health Care Institutions and the Department of Health and Community Services in January 2002. The objective of our review was to determine whether there were adequate procedures and systems in place to manage and control residents' trust accounts, including the following:

- segregation of duties over the receipting, depositing, recording and disbursing trust funds, and preparing and approving bank and trust reconciliations;
- prompt deposit of trust receipts into the appropriate trust bank accounts;
- preparation and approval of bank and trust reconciliations; and
- maintenance of documentation to support disbursements of trust funds.

Our review included trust accounts maintained by the St. John's Nursing Home Board, the Health Care Corporation of St. John's, Western Health Care Corporation, Central West Health Corporation and Central East Health Care Institutions Board. Within these Corporations and Boards we reviewed trust accounts at the following institutions outlined in Figure 2:

Figure 2

Health Care Institutions Reviewed
31 March 2001

Corporation/Board	Health Care Institution	Balance
St. John's Nursing Home Board	Hoyles-Escasoni	$722,000
Health Care Corporation of St. John's	Waterford Hospital	$548,000
Western Health Care Corporation	O'Connell Centre	$118,000
	Interfaith Home	$117,000
Central West Health Corporation	Central Newfoundland Regional Health Centre	$ 2,000
	Dr. Hugh Twomey Health Care Centre	$ 86,000
	Connaigre Peninsula Community Health Centre	$ 16,000
	Carmelite House Senior Citizens Home	$ 80,000
	Valley Vista Senior Citizens Home	$ 75,000
	Baie Verte Peninsula Health Care	$ 30,000
	A.M. Guy Memorial Health Centre	$ 23,000
	North Haven Manor Senior Citizens Home	$ 46,000
Central East Health Care Institutions Board	Lakeside Homes	$115,000
	Notre Dame Bay Memorial Health Centre	$ 10,000

2.16 Residents' Trust Accounts

We also reviewed the trust account maintained by the Department of Health and Community Services which totalled $645,000 at 31 March 2001.

Conclusion

As a result of our review, we have concluded that the procedures and systems in place to manage and control residents' trust accounts require improvement.

Findings and Recommendation

Segregation of Duties

For all trust accounts reviewed, the segregation of duties over receipting, depositing, recording and disbursing trust funds, and preparing and approving bank and trust reconciliations is inadequate. The lack of segregation of incompatible duties increases the risk of theft or unintentional loss of trust funds.

Receipts and Deposits

For most trust accounts reviewed, trust funds are not deposited directly into a trust bank account. In most cases the trust funds are deposited directly into an operating bank account, expenses such as board and lodging are deducted and the remaining funds are then transferred to the trust account. Details on these instances are outlined in Appendix A by institution. When trust funds are not deposited directly intact to a resident's trust bank account, it is more difficult to readily account for all trust receipts and disbursements and control over the trust funds is reduced.

Other weaknesses noted at specific institutions include:

- receipts are not issued for most trust funds received;
- receipts that are issued are not always signed;
- receipts that are issued are not always used in numerical sequence;
- copies of receipts are not always retained;
- deposits are not always made on a timely basis; and
- interest earned on trust funds at one institution is not deposited directly to the resident's trust account but is deposited in an operating bank account for use by the institution in general operations.

2.16 Residents' Trust Accounts

Reconciliations

For many of the trust accounts reviewed, monthly bank and trust reconciliations are either not prepared, not prepared on a timely basis, not approved on a timely basis or not approved by an official independent of the accounting function. In one institution, trust reconciliations did not always agree to the amounts recorded in the accounts. Details on these instances are outlined in Appendix A by institution. Failure to properly prepare and approve monthly bank and trust reconciliations makes it difficult to ensure that the balance of trust accounts held in the bank is the same as both the cash balance and trust balance recorded in the accounts of the institution.

Disbursements

For most of the trust accounts reviewed, instances were noted where appropriate documentation was not available to support the disbursement of trust funds. Details on these instances are outlined in Appendix A by institution. In addition, the following weaknesses were noted at specific institutions:

- original signed cheques are not always returned by the bank;
- cheques sometimes contain only one of the two required signatures;
- payments for residents' drug expenses are sometimes made from petty cash funds, rather than by cheque;
- some trust accounts were overdrawn at various points during the year, and in one case bank overdraft charges were paid from a trust bank account;
- some trust accounts at one institution were inactive for over one year; and
- beneficiaries cannot be determined for some trust accounts.

Individual reports have been provided to the Provincial Health Care Institutions and the Department of Health and Community Services and issues identified during our review have been discussed with their respective officials. Since our review, officials of the Institutions and the Department have indicated that various actions have been taken to strengthen controls over residents' trust accounts.

2.16 Residents' Trust Accounts

Recommendation

The Department of Health and Community Services should work with the boards to ensure that adequate controls are in place to manage residents' trust accounts.

Department's Response

The Department is aware of the difficulties experienced by the boards with regard to the trust accounts; however, we do not have sufficient resources to monitor the trust account activities of the boards on an ongoing basis. However, the Budget Policy Working Group, a subcommittee of the Joint Department/Health and Community Services System Planning Committee, intends to fully review the individual board reports and responses and will be making recommendations to improve the situation.

The Department will follow up with the Boards to ensure identified deficiencies are addressed.

Residents' Trust Funds
Summary of Findings
31 March 2001

Appendix A

Health Care Institution	Trust Fund Balance 31 March 2001	Segregation of Duties	Receipts and Deposits	Bank and Trust Reconciliations	Disbursements / Other
St. John's Nursing Home Board					
Hoyles-Escasoni	$722,000	Inadequate	40 receipts tested - no receipts issued for most trust funds received - trust funds deposited to operating account, board and lodging deducted and balance transferred to trust account - transfers to trust accounts not timely	Prepared monthly but no indication of approval by someone independent of the accounting function	40 disbursements tested - one cheque with only one of the two required signatures. - additional two months tested, 14 cheques with only one signature - two cheques totalling $379 issued to pay amounts already paid (subsequently recovered)
Health Care Corporation of St. John's					
Waterford Hospital	$548,000	Inadequate	43 receipts tested - one case of duplicate copy of receipt not retained - one case of void receipt not retained	Bank reconciliations prepared monthly but not approved on a timely basis Trust reconciliations not prepared	40 disbursements tested - no support for two payments totalling $937 made on behalf of residents for canteen services - at 31 March 2001, trust accounts were overdrawn by $4,916 - unable to determine beneficiaries for $226,000
Western Health Care Corporation					
O'Connell Centre	$118,000	Inadequate	30 receipts tested - the majority of trust funds deposited to operating account, board and lodging deducted and balance transferred to trust account - receipts not signed by person receiving funds - operating account receipts used to receipt trust fund - interest earned on trust accounts deposited to operating account	Prepared monthly but not approved by someone independent of the accounting function	24 disbursements tested - no support for two payments to residents totalling $1,705 - no support for 10 payments to family members totalling $5,353 - two payments totalling $2,776 to family members rather than to the "Estate of the Late..." to close accounts of deceased residents - no support for one payment of $25 made on behalf of a resident - one payment of $525 to an employee to be used as petty cash for seven residents, with no support for petty cash spending

Residents' Trust Funds
Summary of Findings
31 March 2001

Appendix A

Health Care Institution	Trust Fund Balance 31 March 2001	Segregation of Duties	Receipts and Deposits	Bank and Trust Reconciliations	Disbursements / Other
Western Health Care Corporation					
Interfaith Home	$117,000	Inadequate	30 receipts tested - the majority of trust funds deposited to operating account, board and lodging deducted and balance transferred to trust account - five receipts not signed by person receiving funds	Prepared monthly but not approved by someone independent of the accounting function	24 disbursements tested - seven payments totalling $6,375 to family members with no support that the payments were authorized by the residents - one payment of $1,514 to replenish petty cash to cover expenses that should have been paid by cheque - six accounts totalling $12,600 were inactive for one year, five of which were for deceased residents
Central West Health Care Corporation					
Central Newfoundland Regional Health Centre	$2,000	Inadequate	30 receipts tested - the majority of trust funds deposited to operating account, board and lodging deducted and balance transferred to trust account - one deposit of $100 for which the institution could not identify the resident to whom the funds belonged	No issues reported	26 disbursements tested - no issues reported
Dr. Hugh Twomey Health Care Centre	$86,000	Inadequate	34 receipts tested - the majority of trust funds deposited to operating account, board and lodging deducted and balance transferred to trust account	No issues reported	24 disbursements tested - two payments totalling $220 to family members with no support that the payments were authorized by the residents - we were unable to determine if cheques had two signatures as required because original signed cheques were not being returned by the bank
Connaigre Peninsula Community Health Centre	$16,000	Inadequate	30 receipts tested - 12 receipts were not deposited on a timely basis and were not stamped "for deposit only" to the institution - receipts not used in numerical sequence	No issues reported	24 disbursements tested - no support for a payment of $2,000 to a funeral home on behalf of a deceased resident (receipt from funeral home subsequently provided) - four payments totalling $782 to family members with no support that the payments were authorized by the residents - no support for a donation of $100 made on behalf of a resident (receipt subsequently obtained) - two cash payments totalling $560 made to residents but no evidence that the residents received the funds - during the year, 28 cheques totalling $31,000 were issued with only one of the two required signatures

Residents' Trust Funds
Summary of Findings
31 March 2001

Appendix A

Health Care Institution	Trust Fund Balance 31 March 2001	Segregation of Duties	Receipts and Deposits	Bank and Trust Reconciliations	Disbursements / Other
Central West Health Care Corporation					
Carmelite House Senior Citizens Home	$80,000	Inadequate	33 receipts tested - the majority of trust funds deposited to operating account, board and lodging deducted and balance transferred to trust account	Bank reconciliations not prepared for 7 of the 12 months Trust reconciliations not prepared for 5 of the 12 months	24 disbursements tested - we were unable to determine if cheques had two signatures as required because original signed cheques were not being returned by the bank
Valley Vista Senior Citizens Home	$75,000	Inadequate	30 receipts tested - the majority of trust funds deposited to operating account, board and lodging deducted and balance transferred to trust account	Prepared monthly but no indication of approval by someone independent of the accounting function	24 disbursements tested - 10 payments totalling $14,640 to family members with no support that the payments were authorized by the residents - most cheques issued between April 2000 and June 2000 were issued with only one of the two signatures required - at 31 March 2001, 26 trust accounts were overdrawn in total by $2,199, of which $2,096 was overdrawn since April 2000.
Baie Verte Peninsula Health Care	$30,000	Inadequate	30 receipts tested - the majority of trust funds deposited to operating account, board and lodging deducted and balance transferred to trust account	No issues reported	24 disbursements tested - we were unable to determine if cheques had two signatures as required because original signed cheques were not being returned by the bank - one donation of $200 made on behalf of a resident with nothing to support the resident's request that the donation be made
A.M. Guy Memorial Health Centre	$23,000	Inadequate	40 receipts tested - the majority of trust funds deposited to operating account, board and lodging deducted and balance transferred to trust account	Bank reconciliations not prepared for 2 of the 12 months	24 disbursements tested - no support for three payments totalling $320 made on behalf of a resident - one payment of $150 was made to a resident but there is no evidence that the resident received the funds - during the period 1 April 2000 to 31 March 2001, four trust accounts were overdrawn at various points in time with the largest amount being $485

Residents' Trust Funds
Summary of Findings
31 March 2001

Appendix A

Health Care Institution	Trust Fund Balance 31 March 2001	Segregation of Duties	Receipts and Deposits	Bank and Trust Reconciliations	Disbursements / Other
Central West Health Care Corporation					
North Haven Manor Senior Citizens Home	$46,000	Inadequate	40 receipts tested - trust funds are either deposited directly to a trust account or to the operating account, board and lodging deducted and balance transferred to trust account - in one case a resident was provided with cash before a receipt was prepared for funds received and therefore the transaction was never fully recorded in the trust account	Prepared monthly - no indication of approval by someone independent of the accounting function - reconciliations contained a number of unresolved adjustments	24 disbursements tested - no issues reported
Central East Health Care Institutions Board					
Lakeside Homes	$115,000	Inadequate	40 receipts tested - the majority of trust funds deposited to operating account, board and lodging deducted and balance transferred to trust account - six receipts could not be located - receipts for two months had been accidentally destroyed	Prepared monthly but three trust reconciliations did not agree to the amounts recorded in the accounts	24 disbursements tested - four payments totalling $10, 897 to family members rather than to the "Estate of the Late..." to close accounts of deceased residents - no support for a payment of $2,773 to a funeral home on behalf of a deceased resident - from 1 April 2000 to 31 March 2002, 11 trust accounts were overdrawn at various points in time, the largest amount being $109
Notre Dame Bay Memorial Health Centre	$10,000	Inadequate	32 receipts tested - funds received are recorded on one receipt with board and lodging deposited to the operating account and remaining funds deposited to the trust account - deposits not made on a timely basis	Not prepared monthly - only an annual reconciliation prepared for financial statement purposes - no indication of approval by someone independent of the accounting function	14 disbursements tested - two payments totalling $4,712 to family members rather than to the "Estate of the Late..." to close accounts of deceased residents - we were unable to determine if cheques had two signatures as required because original signed cheques were not being returned by the bank

Residents' Trust Funds
Summary of Findings
31 March 2001

Appendix A

Health Care Institution	Trust Fund Balance 31 March 2001	Segregation of Duties	Receipts and Deposits	Bank and Trust Reconciliations	Disbursements / Other
Department of Health and Community Services					
Home for the Aged and Infirm	$645,000	Inadequate	The $644,599 in trust funds remaining at the Department are for accounts for which ownership has not been determined Interest earned on the accounts was very low	Not prepared on a timely basis and not approved by someone independent of the accounting function	Trust account balances overdrawn at 31 March 2001 in the amount of $28,462 Department is unable to determine beneficiaries for any of the $644,599 as it cannot locate the residents' files and ledger cards are not updated on a regular basis. From June to December 2000 the chequing trust account was overdrawn, resulting in $9,300 in overdraft charges while the savings account had a balance of $735,000. Signing authorities on the trust bank accounts were not current.

2.17 Enterprise Newfoundland and Labrador Portfolio Review

Introduction

The Annual Report of the Auditor General to the House of Assembly for the year ended 31 March 1999 included a report on Enterprise Newfoundland and Labrador's loan portfolio funded through the former Department of Development and Rural Renewal's Strategic Enterprise Development Fund. Since 1999 my Office has completed reviews of several investments made through ENL's loan portfolios. In the current year, we performed a review of two additional investments.

Scope and Objectives

The objectives of our review were to assess the approval process, the loan security, the monitoring activities and the current stauts of the Province's investment in each of the two investments.

Conclusions

Company A

Our review indicated that ENL decided to provide additional loans to the Company after the Company failed to comply with repayment terms of its previous loans.

ENL has not obtained the financial information that the Company was required to provide under the loan agreements. For example, audited financial statements have not been provided by the Company since 1992. Without adequate financial information, ENL cannot determine the status of its investment and ensure that loans were spent for the intended purpose.

Although the Company failed to comply with the terms of the loan agreements regarding loan repayments, submission of financial information, and insurance on secured property, ENL has decided not to take action to recover its investment through its claim on the Company's assets.

Company B

Additional loans were made to Company B although the company failed to comply with repayment terms of previous loans. In addition, there was inadequate documentation to evidence the required shareholder investment and to show whether the loans were used for the intended purpose.

2.17 Enterprise Newfoundland and Labrador Portfolio Review

ENL has not obtained the financial information that the Company was required to provide under the loan agreements. Although the Company was required to provide audited financial statements in accordance with the terms of the loan agreements, no audited financial statements have ever been provided. Without adequate financial information, ENL cannot determine the status of its investment and ensure that loans were spent for the intended purpose.

Although the Company failed to comply with repayment terms, ENL decided not to take action to recover its investment through its claim on the Company's assets and subsequently relinquished its security in favour of other creditors.

Findings and Recommendations

Company A

In October 1992, Enterprise Newfoundland and Labrador (ENL) made its first loan of $500,000 to the Company to purchase equipment.

Since the initial loan of $500,000 in 1992, ENL has advanced five additional loans totaling $949,365. In addition to this $1,449,365 in loans, ENL also paid professional fees of $29,343 on behalf of the Company. In addition, interest charges of $976,849 have been added to these loans. As at 31 March 2002, ENL had recovered only $233,300 of its investment resulting in a balance owing of $2.22 million comprised of $1.32 million in principal and $0.9 million in interest. The Company has not made any payments since October 1998 and the entire outstanding balance is considered by ENL to be doubtful of collection. Figure 1 shows the history of ENL's loans to the Company.

Figure 1

Enterprise Newfoundland and Labrador
Investment in Company A
1992-2002

Date	Description	Advances	Payments	Loan Balance
October 1992	Loan advance for equipment	$ 500,000		
August 1993	Loan advance for equipment	500,000		
February 1994	Payment		$ 29,990	
March 1994	Payout on loan guarantee	229,065		
April 1994	Payment		59,868	
March 1996	Contract financing loan	120,000		
June 1996	Payment		135,990	
July 1996	Contract financing loan	40,000		
December 1996	Payment		1,452	
August 1998	Working capital loan	60,300		
October 1998	Payment		6,000	
		1,449,365	233,300	
May 1995	Professional fees	29,343		
	Interest	976,849		
Total		$ 2,455,557	$ 233,300	$ 2,222,257

Source: Department of Industry, Trade and Rural Development's Loans Administrator System

1. Advances and Approvals

ENL approved six loans for the Company from 1992 to 1998. These loans were to be used to purchase equipment, finance specific contracts and to provide working capital. Our review identified the following issues:

- Although ENL staff had identified significant problems with non-repayment of loans, poor cooperation of the Company management, operational problems, poor and risky markets, and a lack of financial information, additional loans were advanced. For example, a presentation prepared in 1993 for discussion at an ENL

Board meeting identified many operational issues relating to the Company and in 1993 an ENL staff member noted that the markets for the Company's products appeared to be poor and very risky. An account status report prepared by ENL staff in 1998 indicated concerns that *"... frustration was developed over time through a lack of cooperation and communication on the part of the management of the Company, the inability to obtain timely information and a history of broken commitments and promises."*

Although ENL had identified many concerns in its dealings with the Company, in June 2000 ENL provided a $700,000 loan to another company with the same management team and a dependence on Company A for a supply of raw material. In addition, ENL had concerns with the competitive foreign markets, outdated equipment, poor financial performance and undisclosed start-up costs of the associated company.

- In 1996, ENL provided two interim financing loans of $120,000 and $40,000. The $120,000 loan was repaid in 1996. However, although the $40,000 loan was repaid by the Company in February 1997, ENL refunded the $40,000 to the Company in April 1997. Effectively, therefore, ENL provided another $40,000 loan to the Company without approval of the ENL Board of Directors.

- A $60,300 working capital loan provided in August 1998 was interest-free and secured by an assignment of sale proceeds. However, no monies have been received on this loan account as at 31 March 2002.

2. Security

ENL's security position includes a first charge over the fixed assets of the Company. In August 1998, ENL estimated these assets consisting of land, building and equipment to have a book value of approximately $3.8 million. Our review identified the following:

- Although the assets have an estimated book value of $3.8 million, there has been no estimate of the amount that could be realized if the assets were claimed and sold by ENL. In 1998 ENL staff noted that *".... it was difficult to estimate to any degree of certainty the value of the assets under forced sale conditions given the type of equipment, its location, and whether the company could possibly be sold as a going concern."*

- Although the loan agreements require that insurance be carried on the assets pledged as security, such insurance has not been carried on the Company's assets since 1994. In 1999, a fire destroyed an office building and garage that were part of ENL's security. These assets were estimated by the Company to be worth $30,000. Without adequate insurance, ENL's asset securities are in jeopardy.

3. Monitoring

ENL has a policy of monitoring its loan accounts by reviewing financial statements and financial information and by conducting periodic site visits. Our review identified the following:

- Loans provided up to 1998 required audited financial statements to be provided annually while the 1998 loan required annual unaudited financial statements. However, no audited financial statements have been received for any fiscal year since 1992. Unaudited financial statements have been received for the years 1994 to 1998. No financial statements have been received since 1998. Without adequate financial information, ENL cannot determine the status of its investment and ensure that loans were spent for the intended purpose.

- The last site visit documented was in August 1999. Although ENL officials indicated that some site visits were conducted since that time, there is no documentation on file to support these visits or to document findings.

4. Status

The Company is still in operation; however, due to the lack of current financial information and site visits, ENL is not in a position to assess the current financial and operational status of the Company. ENL has determined that the account balance of $2.2 million as at 31 March 2002 is doubtful of collection.

Company B

Enterprise Newfoundland and Labrador (ENL) initially became involved in this company in 1990 when the former Newfoundland and Labrador Development Corporation, a predecessor company of ENL, approved a $500,000 loan to assist with the acquisition of assets and to provide operating funds.

In March 1993, ENL provided an additional $300,000 loan for the purchase of equipment. ENL also paid legal fees of $4,766 on behalf of the Company. In addition, interest charges of $830,784 have been added to these loans.

In May 1999, ENL wrote off $548,388 in amounts owing from the Company and converted the remaining debt of $730,689 into an equity investment in the Company. As at 31 March 2002, ENL had recovered $396,072 of its investment resulting in a balance owing of $691,090. Figure 2 outlines the details of ENL's transactions with the Company.

Figure 2

Enterprise Newfoundland and Labrador
Investment in Company B
1990-2002

Transactions	Amount
Loans advanced	$ 800,000
Interest charged	830,784
Security credits (legal fees)	4,766
	1,635,550
Receipts	(396,072)
Write-offs	(548,388)
Equity Outstanding 31 March 2002	$ 691,090

Source: Department of Industry, Trade and Rural Development Loans Administrator System.

In addition to the $691,090 owing from the Company, ENL is owed $1.8 million from five related companies as at 31 March 2002. The amount owing is comprised of $1.4 million in principal and $400,000 in interest as indicated in Figure 3. All of the outstanding balance of $1.8 million is considered by ENL to be doubtful of collection.

Figure 3

Enterprise Newfoundland and Labrador
Loans to Related Companies
31 March 2002

	Principal	Interest	Total
Company 1	$ 100,000	$ 18,783	$ 118,783
Company 2	185,113	0	185,113
Company 3	415,390	243,222	658,612
Company 4	350,000	0	350,000
Company 5	373,000	112,598	485,598
Total	**$ 1,423,503**	**$ 374,603**	**$ 1,798,106**

Source: Department of Industry, Trade and Rural Development Loans Administrator System.

1. Advances and Approvals

In March 1990, ENL approved a $500,000 loan to assist with the acquisition of assets and to provide operating funds for the Company. The proposal submitted by the Company indicated that the required funds were to assist with the following:

Building purchase	$ 500,000
Building renovations	201,000
Tank farm	135,000
Vehicles and equipment	226,000
Working capital/contingencies	113,000
	$1,175,000

Our review of the approval and disbursement of the $500,000 loan indicated the following:

- There was inadequate documentation to support how much the Company paid for the building or the other assets acquired. In addition, a subsequent search with the Registry of Deeds by a government solicitor did not identify any title transfer of the building to the Company.

- In addition to ENL financing, the shareholders were to contribute $600,000. There was inadequate documentation to show that the shareholders had made this investment.

- As a condition for the $500,000 loan, the financing agreement stated that the Company should not pledge the shares or assets of the Company without written consent of ENL. After the Company was provided its first loan of $500,000, its parent company purchased the remaining 50% of the outstanding shares of the other shareholder. In exchange, the other shareholder took a $250,000 mortgage on the Company's assets. There was no evidence on file that ENL gave its consent, as required by the loan agreement, before this transaction occurred.

In March 1993 ENL provided the Company with an additional $300,000 loan to purchase vehicles and equipment. Our review identified the following:

- The $300,000 loan was approved even though no payments had been made on the $500,000 loan provided in 1990. As at 1 March 1993 the $500,000 was in arrears by approximately $330,000 relating to principal and interest.

- A condition for the $300,000 loan required the Company to obtain quotes for the equipment that was to be purchased with the funds. However, there was inadequate documentation to show whether this condition for funding had been met or to otherwise determine how the $300,000 was spent.

- As a condition for the $300,000 loan, the financing agreement stated that the Company should not pledge the shares or assets of the Company or incur additional debt without the written consent of ENL. In 1995, ENL identified that the Company had violated the terms of its loan with ENL when it provided two debentures to other companies in 1993 without the consent of ENL. Both debentures resulted in the subordination of ENL's security position. Even after ENL discussed this violation with the Company in July 1995, the Company, in December 1996, provided a debenture to a related company thereby subordinating ENL's security position once again. Although ENL did require the Company to change its security to these companies, ENL later approved to subordinate its first charge on the building to a supplier in the amount of $300,000 after obtaining an increased personal guarantee from the owner.

2. Security

In support of its loans totalling $800,000, ENL took a first charge on leasehold property, buildings and equipment, obtained personal and corporate guarantees, and entered into a shareholders' subordination agreement. In May 1999, ENL approved a restructuring plan for the Company and released all of its security when the shareholders' loans were converted to an equity position in order for the Company to obtain bank financing of $600,000.

3. Monitoring

As a condition of the two loan agreements, the Company was required to submit annual audited financial statements to ENL. Our review indicated that the Company never provided audited financial statements. Although the Company did submit unaudited financial statements to ENL, these financial statements were usually not provided until seven to twelve months after the year end. Without timely annual audited financial statements, ENL cannot determine the status of its investment and ensure that loans were spent for the intended purpose.

In addition to requiring financial information from companies, ENL staff are also required to monitor client operations through periodic site visits. However, there were no recorded site visits between 9 November 1993 and 15 May 2001 when the Province entered into a lease agreement for rental of space from the Company. Without regular site visits, ENL cannot adequately monitor the operations and therefore the status of its investment.

4. Status

The Company is still in operation and as at 31 March 2002 ENL's investment in the Company of $691,090 was still outstanding. On 15 May 2001, the Company and the Minister of Works, Services and Transportation, on behalf of the Province, entered into a 10-year agreement for the lease of approximately 44,161 square feet of rental space to accommodate a Government Division, which was recently transferred from St. John's. This was the same building that Government released as security in May 1999.

The lease agreement required that a monthly deduction of $6,089 be held back on each month's lease payment during the term of the initial 10-year lease and be applied against ENL's investment. This repayment schedule would result in ENL's investment in the Company being repaid over 10 years, with no recovery of the $548,000 amount previously written-off and with no interest charged since May 1999.

2.17 Enterprise Newfoundland and Labrador Portfolio Review

Department's Response - Company A

ENL and its successor agencies play an important role in stimulating new business activity and employment in the province, particularly in rural areas and in emerging new sectors of the economy, where commercial banks are reluctant to invest. Individual investment decisions are made carefully under the authority of an arms length Board, but by their very nature they are risk investments and developmental in nature. Government also acts as a patient investor, unlike the banks. It is flexible on repayment terms as individual circumstances may dictate in keeping with its developmental mandate. And success can still occur even if there is not full financial recovery of the original investment. If a business sustains itself, grows over time, continues to employ people, generates new tax revenue for the province, and helps diversify and strengthen a local economy, the investment can be considered a success, even if the financial investment itself may not be able to be completely recovered.

This is consistent with what has transpired in the case of Company A. In the early 1990s, ENL assisted the Company to revitalize its operations which were virtually idle. This investment was made in an area of the province experiencing very high unemployment and with limited economic diversification opportunities. ENL's initial investment represented less than 20% of the total project cost of $6.2 million and was instrumental in leveraging financing from other sources, including $3.2 million in private equity from the principals of the company. The initial and subsequent investment decisions were made by an independent Board with a full understanding and assessment of the risks involved. Detailed documentation is on file outlining all of the factors considered by the Board on each investment decision taken, including but not limited to the specific information reported by the Auditor General. This facility continues to be a major employer in the area generating direct employment for 40 to 50 mill workers and a further 60 to 80 loggers.

Similarly, the $700,000 loan to the second company was part of a $7.4 million investment in a manufacturing facility located adjacent to Company A's operation which helped to leverage $4.2 million in equity from the company principals. The plant is expected to open shortly, directly employing approximately 70 people when fully operational. As well, it is important to note that the initial business concerns raised by ENL staff respecting this investment, as highlighted by the Auditor General, were fully addressed in an independent consultant's report commissioned by ENL prior to the actual investment decision being made by the Board. This independent report forms part of the investment file documentation that was accessible to the Auditor General.

With respect to the absence of insurance on the assets, the company has endeavoured to but has not been able to obtain any insurance since 1994 due to what insurance underwriters consider to be excessive risk relating to onsite sawdust storage that cannot reasonably be mitigated by the company.

While the company has not provided audited or timely financial statements to ENL in all instances, all loans advanced to the company have been fully accounted for through other means to ensure they were spent for the intended purposes, such as paid invoices audited by ENL staff. Furthermore, regular site visits have been conducted by staff to review the financial and operational status of the company. Inadequate file documentation of such visits and reviews will be fully addressed on a go forward basis.

Even though the company is not currently in full compliance with its loan agreements, ENL is of the view that it would not be in the public interest to demand full repayment of the loans at this time as a means of recovering the province's financial investment through its security arrangements. Such action would likely cause the company to go into bankruptcy.

As of April 1, 2000, the Department of Industry, Trade and Rural Development ceased providing loans or loan guarantees to private sector companies. The Department's current policy approach to supporting the growth of small to medium sized enterprises is through a matching equity financing program that has a funding cap of $50,000 for individual companies and through a venture capital tax credit program.

Department's Response - Company B

ENL and its successor agencies play an important role in stimulating new business activity and employment in the province, particularly in rural areas and in emerging new sectors of the economy, where commercial banks are reluctant to invest. Individual investment decisions are made carefully under the authority of an arms length Board, but by their very nature they are risk investments and developmental in nature. Government also acts as a patient investor, unlike the banks. It is flexible on repayment terms as individual circumstances may dictate in keeping with its developmental mandate. And success can still occur even if there is not full financial recovery of the original investment. If a business sustains itself, grows over time, continues to employ people, generates new tax revenue for the province, and helps diversify and strengthen a local economy, the investment can be considered a success, even if the financial investment itself may not be able to be completely recovered.

This is consistent with what has transpired in the case of Company B. In the early 1990s, ENL assisted this Company in capitalizing on new business opportunities, creating up to 20 new jobs and generating upwards of $350,000 annually in salaries/wages to the area's local economy. The initial and subsequent investment decisions were made by an independent Board with a full understanding and assessment of the risks involved. Detailed documentation is on file outlining all of the factors considered by the Board on each investment decision taken, including but not limited to the specific information reported by the Auditor General.

While the Company has not, to date, provided audited financial statements on its operation, all loans advanced, with one modest exception in 1993, have been fully accounted for through other means to ensure they were spent for the intended purposes, such as legal confirmation of title to various assets and detailed technical reports audited by ENL staff. Furthermore, regular site visits have been conducted by staff to review the financial and operational status of the company. Inadequate file documentation of such visits and reviews will be fully addressed on a go forward basis.

Decisions relating to the relinquishment of partial loan security and the later conversion of all remaining debt to equity were fully and properly considered by the Board to facilitate successive financial restructurings of the company to strengthen the long term viability of the company. The conversion of all remaining ENL debt to equity in 1999 was part of an overall $1.7 million corporate restructuring and took place two full years prior to a separate decision being taken by the Department of Works, Services and Transportation in 2001 to enter into a 10 year lease for part of the company's facility to accommodate the relocation of a Government Division from St. John's.

Even though the company did not fully comply with its loan agreements, ENL was of the view at the time that it would not be in the public interest to demand full repayment of the loans as a means of recovering the province's investment through its security arrangements. Such action would likely have caused the company to have gone into bankruptcy.

As of April 1, 2000, the Department of Industry, Trade and Rural Development ceased providing loans or loan guarantees to private sector companies. The Department's current policy approach to supporting the growth of small to medium sized enterprises is through a matching equity financing program that has a funding cap of $50,000 for individual companies and through a venture capital tax credit program.

2.18 Sale of Marystown Shipyard Facilities

Introduction

Government's involvement with the Marystown shipyard facilities began in 1966 with the construction of the shipyard. The shipyard became operational in 1968, with the fabrication/offshore service facilities being added in 1993 at Cow Head. All significant capital assets at the facilities were owned directly by a Government Crown agency, Newfoundland and Labrador Ocean Enterprises Limited. As indicated in Figure 1, since 1966 Government has provided the Marystown facilities with $185.9 million in assistance.

Figure 1

Government Assistance
Newfoundland and Labrador Ocean Enterprises Limited
Years Ended March
($ Millions)

Year	Capital Grants Received	Operations Grants Received	Assumption of Bank Debt	
1966 - 1994	43.40	56.40	0.00	
1995	1.70	2.20	0.00	
1996	0.40	3.80	0.00	
1997	0.00	3.50	0.00	
1998	0.00	3.60	0.00	
1999	0.00	0.00	70.90	
2000	0.00	0.00	0.00	
2001	0.00	0.00	0.00	
2002	0.00	0.00	0.00	
Total	**45.50**	**69.50**	**70.90**	**185.90**

Source:Government's records and audited financial statements of Newfoundland and Labrador Ocean Enterprises Limited

2.18 Sale of Marystown Shipyard Facilities

Government entered into an Asset Purchase Agreement (22 December 1997) and a Share Purchase Agreement (1 January 1998) with Friede Goldman which resulted in the assets of the Marystown facilities being transferred to that Company for $1. The net book value of the assets of the Marystown shipyard, as disclosed in the audited interim financial statements of Newfoundland and Labrador Ocean Enterprises Limited as at 31 December 1997, was $61 million ($86 million cost less accumulated depreciation of $25 million). The agreements contained provisions with respect to minimum man hour requirements, payment of net after tax profit of the facilities relating to the year ended March 1998, completion of specified upgrades and repairs and investment in capital improvements, and provision to Government of at least 90 days notice of any intended cessation of operations. In the event of default on the employment requirements for the years 1998, 1999 and 2000 there was a requirement to pay Government $10 million, $5 million and $5 million respectively.

In 1999, we reviewed Government's investment in the shipyard to determine whether the provisions of the sale agreements were being complied with. The main issues identified at that time included:

- Reports relating to man hours of work required were not submitted by the required deadlines, nor were the hours verified by Government.
- Although the Cabinet Committee established to oversee the sale of the Marystown facilities wanted the terms of guaranteed employment extended beyond three years (i.e. 31 December 2000) and wanted to incorporate language covering the return of assets to the Province in the event of certain occurrences, this was never included in the agreements. As a result:
  - The company was not required to meet any employment or other requirements after the term of the agreement had passed, i.e. 31 December 2000.
  - Although assets with a cost of $86 million were transferred to the Company, there was no provision for the assets to be returned to the Province in the event the Company did not comply with the agreements or if the Company decided to sell the facilities.

2.18 Sale of Marystown Shipyard Facilities

In 2001, we updated our review and identified that, although the Company met the employment targets for 1998, it did not meet the targets for 1999 and 2000. Therefore, in accordance with the Agreement, the Company owed Government a total of $10 million. Government agreed to temporarily suspend its demand for the $10 million, to allow the Company to continue to operate and thereby provide further business development for the Marystown area.

On 27 March 2002 Friede Goldman sold the assets of the Marystown facilities to Peter Kiewit Sons Co. Ltd.

Scope and Objectives

Our objective was to update our review of Government's involvement in the Marystown shipyard facilities. We completed our review in October 2002.

Conclusions

Since 1966 Government has provided the Marystown facilities with $185.9 million in assistance. In 1997, Government sold the Marystown facilities to Friede Goldman for $1. The sale agreements contained provisions with respect to minimum man hour requirements, payment of net after tax profit of the facilities relating to the year ended March 1998, completion of specified upgrades and repairs and investment in capital improvements, and provision to Government of at least 90 days notice of any intended cessation of operations. Although at that time, assets with a cost of $86 million were transferred to the Company, there was no provision for the assets to be returned to the Province in the event the Company did not comply with the agreements or if the Company decided to sell the facilities.

Friede Goldman did not meet the employment targets for 1999 and 2000 and was required by the agreements to pay the Province $10 million. In March 2002, Friede Goldman sold the Marystown facilities to Peter Kiewit Sons Co. Ltd. To facilitate the sale , Government released Friede Goldman from its $10 million liability.

At 31 March 2002, Government has provided Newfoundland and Labrador Ocean Enterprises Limited with a performance guarantee of $7 million and a loan guarantee of $4.85 million.

As a result of these transactions, at 31 March 2002, the Province has no claim on the Marystown facilities and has no employment or investment guarantees from the current operator.

2.18 Sale of Marystown Shipyard Facilities

Findings

On 27 March 2002, the assets of Friede Goldman were sold to Peter Kiewit Sons Co. Ltd (PKS).

To facilitate the sale, Government agreed to:

- release Friede Goldman from the liability to pay the $10 million owed to Government as a result of the Company not meeting the required employment targets for 1999 and 2000;
- accept there were no further obligations by Friede Goldman under its original purchase agreement with Government; and
- provide PKS with full remission from the Health and Post-Secondary Education Tax and Provincial Corporate Income Tax for the purpose of its fabrication operations in Marystown and Cow Head for the period from 22 March 2002 up to and including 31 December 2007, followed by a phase out of this tax relief over a five year period at a rate of 20% per year.

As part of the sale, PKS agreed to:

- assume Friede Goldman's responsibility under the Environmental Agreement which was originally entered into between Government and Friede Goldman; and
- accept environmental remedial work performed prior to the sale as completed satisfactorily.

The sale of the Marystown shipyard facilities to PKS did not result in any employment or investment guarantees to Government.

In addition to the preceding points relating to the sale of the facilities to PKS, our review also indicated the following:

Financial Assistance

As part of the 1997 sale of the Marystown facilities to Friede Goldman, the Agreement contained a provision for working capital being available to Friede Goldman at closing of at least $2.5 million. Any difference was to be paid or recovered by the applicable party. Based on audits, Government was required to pay Friede Goldman $2.2 million related to working capital shortfall.

2.18 Sale of Marystown Shipyard Facilities

Environmental Costs

At 31 March 2002, Government had authorized bank loan guarantees totalling $4.85 million for Newfoundland and Labrador Ocean Enterprises Limited relating to the performance of environmental remediation work. Government officials indicate that the environmental remediation work is substantially complete.

Performance Guarantees

When Government sold the Marystown shipyard facilities, it provided performance guarantees on behalf of Newfoundland and Labrador Ocean Enterprises Limited relating to ongoing contracts for construction of vessels. At 31 March 2002, the performance guarantee had a balance of $7 million.

Department's Response

The findings reported in the Auditor General's current update have been fully disclosed and addressed by government previously, pursuant to the original sale of the Marystown facilities to Friede Goldman Newfoundland (FGN) in 1998 and the subsequent transfer of ownership to PKS in 2002.

The $10 million penalty owed by FGN as a result of the company not meeting its employment performance targets in 1999 and 2000 was used as leverage to help facilitate the sale of the facilities to PKS and secure a future for the yard. At that time, FGN's parent company was in bankruptcy protection in the United States and this created significant difficulties for FGN in pursuing new work at Marystown. The forgiveness of the $10 million permitted FGN to reduce its liabilities significantly, and this enabled it to sell the yard intact to PKS. It should also be noted that the sale of the shipyard and government's forgiveness of the $10 million penalty did not result in Friede Goldman realizing any financial gain for its shareholders.

The alternative for government would have been to force the issue of the $10 million unpaid penalty in the courts, which would likely have resulted in the bankruptcy of FGN and the ensuing liquidation and potential removal of its assets from the province.

The sale of the yard to PKS was also critical to Husky Energy proceeding with the $2.3 billion White Rose offshore oil project. The Marystown yard formed a major part of Husky's plan to maximize provincial industrial and employment benefits from the White Rose project, but the uncertainty *created by FGN's overall financial situation precluded Husky and PKS from proceeding with the project. Had the sale to PKS not occurred, it would have jeopardized the entire White Rose project which is now well underway and contributing substantively to the province's strong economic and employment performance.*

The sale of the yard to PKS in 2002 was a transaction between two private sector companies and consequently government was not in a position to impose any restrictions on ownership or impose any new employment or investment performance obligations on the part of PKS. Furthermore, the sale did not confer any new benefits or financial incentives from government to the new owners. Government simply carried forward the contractual obligations (with the exception of the $10 million in penalties) that were in place at the time of the initial divestiture in 1998, including the balance of the EDGE benefits that were originally granted to FGN. In this regard, government continues to remain responsible for all environmental liabilities that existed at the point of divestiture in 1998. At the time of the initial divestiture, government also agreed to continue with the performance guarantees that had been issued for various contracts that were in place at the time of divestiture. These performance guarantees are in the process of being formally extinguished, with no expected financial liability for government.

The Marystown operation currently enjoys strong private sector ownership and management that is generating significant employment and other economic benefits for the local area and the province as a whole, without any subsidies from the province that characterized the history of the operation as a Crown corporation from its inception and which, in the final analysis, cost taxpayers approximately $186 million.

2.19 Royal Newfoundland Constabulary Firearms Review

Introduction

The Royal Newfoundland Constabulary was established in 1871. The mission of the Royal Newfoundland Constabulary is to work with communities in Newfoundland and Labrador to foster safe communities by providing quality, professional, accessible, timely and fair police services to all. The Royal Newfoundland Constabulary is responsible for policing three regions of the Province - the North East Avalon, Corner Brook and Labrador West. The population of these regions is approximately 201,000 (2001 census). In providing these services, the Royal Newfoundland Constabulary currently employs 305 police members, 9 temporary recruits and 81 civilian staff.

On 2 December 1997, a Select Committee of the House of Assembly was appointed to enquire into the arming policy of the Royal Newfoundland Constabulary, and report its findings to the House of Assembly by 31 March 1998. The Select Committee conducted research, viewed presentations by interested parties and held public hearings. The Committee tabled its report to the House of Assembly on 31 March 1998 which recommended that the arming policy of the Royal Newfoundland Constabulary be amended to permit its members on operational duty to wear sidearms as part of their regular uniform.

The Committee further recommended that:

- the Chief of Police have discretion in the administration of the policy including discretion in assigning officers to operational duty;
- police officers' sidearms be stored in a secure locker at the station when they are not on duty;
- a firearms audit acceptable to the Minister of Justice be performed annually and submitted to the House of Assembly; and
- the arming policy be reviewed at the end of five years by a Select Committee of the House of Assembly.

As a result of the recommendations of the Select Committee on the Arming Policy of the Royal Newfoundland Constabulary, members on operational duty were permitted to wear sidearms commencing 14 June 1998. To provide specific direction to members on the control and usage of firearms, a revised Firearms Policy was also issued at this time. Figure 1 outlines the number of firearms maintained by the Royal Newfoundland Constabulary as of October 2002.

2.19 Royal Newfoundland Constabulary Firearms Review

Figure 1

Royal Newfoundland Constabulary
Number of Firearms
October 2002

	St. John's	Corner Brook	Labrador West	Total
Handguns	345	47	24	**416**
Shotguns	40	6	8	**54**
Rifles	101	16	6	**123**
Total	**486**	**69**	**38**	**593**

Source: Royal Newfoundland Constabulary Inventory System

Scope and Objectives

One of the recommendations of the Select Committee on the Arming Policy of the Royal Newfoundland Constabulary was that a firearms audit acceptable to the Minister of Justice be performed annually and submitted to the House of Assembly. To comply with this recommendation, the Chief of Police has again requested my Office to conduct an annual audit of firearms in 2002. In November 2002 we completed our fourth annual review. The objectives of the review were to:

- Determine whether the Royal Newfoundland Constabulary has adequate systems in place to record, monitor and secure its firearms inventory. This included determining, as recommended by the Select Committee, whether sidearms are stored in a secure locker at the station when members are not on duty.
- Determine whether the revised Firearms Policy covered all relevant issues pertaining to the use and control of firearms.
- Determine whether the Royal Newfoundland Constabulary has adequate procedures to monitor members' compliance with the revised Firearms Policy and where appropriate, test compliance with this Policy.

2.19 Royal Newfoundland Constabulary Firearms Review

Conclusions

Control over Firearms and Ammunition

In 1998, members of the Royal Newfoundland Constabulary were permitted to wear firearms as part of their regular uniform. The Select Committee of the House of Assembly which recommended the new arming policy also recommended that a firearms audit be performed annually and submitted to the House of Assembly. As a result, this is our fourth annual firearms audit.

In our three previous audits we reviewed the firearms policy of the Royal Newfoundland Constabulary and reported a number of issues which had to be addressed. Although the Royal Newfoundland Constabulary has adequate systems in place to record, monitor and secure its firearms, we continue to identify instances of non-compliance with policy. Given the serious repercussions that could result from the use of firearms, it is critical that the Royal Newfoundland Constabulary continue efforts to improve compliance with established policies and procedures.

Our review identified a number of issues which should be addressed. However, the most serious issues are as follows:

- Although we did not find any instances during our review where a member had a firearm which had been issued to another member, we were unable to verify the serial number on 21 firearms. For these 21 firearms, grips had been installed making it impossible to read the serial number without removing the grip. When we conducted our review in October 2002, during a monthly inspection, there was no one available to remove these grips so we could not confirm the serial numbers of these firearms. The fact that a monthly inspection would be conducted without removing these grips is of particular concern because during our review in 2001, we found that 1 member, who had installed a grip on the firearm, actually had a firearm issued to another member.

- Although Royal Newfoundland Constabulary policy requires that all members receive, on an annual basis, a requalification for the use of firearms, we found that 43 members had not received the required training in the required one year time frame.

  Furthermore, we determined that information in the training database is neither complete nor accurate. Of particular concern is that, as the system is used to determine what use of force training has already been provided and what training is left to be provided, inaccuracies may result in a situation where a member may not receive all of the necessary use of force training.

2.19 Royal Newfoundland Constabulary Firearms Review

Findings and Recommendation

Inventory Management

The Royal Newfoundland Constabulary has developed inventory control procedures to provide for the proper management of its firearms. These policies include such areas as the assignment of responsibility for control of weapons, the maintenance of a perpetual inventory system, the requirement for annual inventory counts and reports thereon, and procedures to update the inventory system for acquisitions, transfers, dispositions and any required adjustments.

In our 2001 review we concluded that inventory controls required improvements. Internal reviews conducted by the Quality Performance Section in April 2002 and September 2002 also indicated differences in the count of ammunition and firearm assignments. Our review of this area for 2002 indicated the following:

- Although the inventory system is a perpetual system (i.e. it is supposed to be continually updated), we determined that required adjustments, including additions, dispositions or internal re-assignments of firearms and ammunition, are not always made on a timely basis. As a result, information on firearms and ammunition inventory is not always accurate and up to date. For example, during our firearm locker inspections and an inventory count that we conducted in October/November 2002, we found that firearms had been re-assigned but the re-assignments had not been updated in the inventory system.

- We tested the accuracy of the inventory listings for firearms and ammunition in St. John's, Corner Brook and Labrador West by selecting almost all physical inventory items and comparing them to the inventory system. We also selected almost all of the firearms from the inventory system to ensure that the firearm was located where listed in the inventory system. During our review we found that the inventory system was not accurate as outlined by the following instances:

    - There was one instance where a firearm recorded in the inventory system could not be located. It was subsequently determined that this firearm did not exist and the serial number had been entered in the inventory system in error.

    - There was an instance where the serial number on the firearm had not been entered correctly in the inventory system.

2.19 Royal Newfoundland Constabulary Firearms Review

- There were eight instances where firearms were located in a different physical location than recorded in the system. These firearms were, however, located in secure areas within Royal Newfoundland Constabulary facilities. This includes a firearm that is still stored in the firearms storage lockers even though the member was assigned to a different detachment in August 2002. In this instance, the firearm should be returned to the arsenal and the system should be updated accordingly.

- There were two instances where the firearm assignment for Corner Brook members was incorrect in Corner Brook's own inventory listing as well as St. John's. Also, one instance was identified where the Corner Brook inventory had been updated to reflect a re-assignment of a firearm; however, the required change had not been made to the inventory system in St. John's.

- There were three instances where the inventory system in Labrador West had been updated for changes to firearm assignments; however, the required changes had not been made to the inventory system in St. John's.

- There are 13 types of ammunition in the inventory system and we reviewed all 13 at St. John's. We determined that for one type of ammunition, the physical count did not agree to what was recorded in the inventory system. In this instance, 1,000 rounds of 38 calibre training ammunition could not be accounted for.

- The ammunition transferred to the Corner Brook Division and the Labrador West Division from St. John's is recorded as used in the inventory system in St. John's when transferred. Labrador West uses a computerized inventory system to monitor its firearms and ammunition inventory while Corner Brook uses a manual system. While in Labrador West, we reviewed the seven types of ammunition stored there. For one type of ammunition, the physical count did not agree to what was recorded in the inventory system. While in Corner Brook, we reviewed the six types of ammunition stored there. For two types of ammunition, the physical counts did not agree to what was recorded in the inventory system. In all cases, the explanation offered was that ammunition has been used without the proper entry being made to the inventory system.

2.19 Royal Newfoundland Constabulary Firearms Review

Firearms Policy

The Royal Newfoundland Constabulary has a Firearms Policy to provide specific direction to its members on the control and usage of firearms. Our review included a comparison of this policy with policies of other Canadian police jurisdictions. These jurisdictions included Halifax, Toronto Metro, Winnipeg, Brandon, Edmonton, Calgary, Vancouver, and New Westminster. We also reviewed procedures used by the Royal Newfoundland Constabulary to monitor members' compliance with the Firearms Policy which include inspections of firearms and firearms storage areas, review of reports prepared by members who have drawn firearms, and internal quality reviews over firearms. Where appropriate, we also tested compliance with this policy. Our review of these areas indicated the following:

1. Adequacy of Policy

Our review indicated that, in general, the revised Firearms Policy of the Royal Newfoundland Constabulary is comparable to that of the other Canadian police jurisdictions and covered similar issues pertaining to the use and control of firearms.

2. Compliance with Policy

A review of documentation maintained by the Royal Newfoundland Constabulary in monitoring compliance with the Firearms Policy, discussions with Royal Newfoundland Constabulary officials and testing of compliance with this Policy by my Office indicated that members are not always complying with the Firearms Policy. For example:

- The Firearms Policy requires unloaded firearms to be secured in the members' personal firearms storage lockers at Royal Newfoundland Constabulary facilities or in other approved locations when the member is not on duty. To monitor compliance with this policy, the Inspections Officer or their designate at other detachments is required to conduct a monthly inspection of the firearms storage lockers. Any infractions with this policy are reported to the District Inspectors or the Divisional Commanders to follow up with the members.

2.19 Royal Newfoundland Constabulary Firearms Review

A review of these monthly inspection reports indicate infractions such as ammunition not stored in the locker even though the member was not on duty, missing pepper spray, and stored firearms which were loaded. We were informed that, in instances where infractions were identified by the Inspections Officer, appropriate action was taken, including disciplinary action, where necessary. Reviews conducted by the internal Quality Performance Section in April 2002 and September 2002 also noted infractions regarding firearms storage. These included a loaded firearm and missing pepper spray.

As part of our review, we attended the October 2002 monthly inspection for the St. John's detachment including its district office in Mount Pearl along with satellite offices in Conception Bay South and Torbay. During this inspection, we observed 13 infractions of the firearms policy. For example:

- During the audit we identified 21 firearms with a grip installed making it impossible to read the serial number. While, the Inspections Officer indicated that normally the Range Master removes these grips during the monthly inspections, the Range Master was not available on this day and therefore, we were unable to confirm the serial numbers on any of these 21 firearms. During our review in 2001, we found that one member, who had installed a grip on the firearm, actually had a firearm issued to another member. It is a concern that members with a firearm other than that assigned to them could go undetected during monthly firearm locker inspections if these grips are not removed.

- There was one instance identified where a member's firearm was still loaded when it was stored in their firearm locker, contrary to policy.

- There was one member who had their firearm stored in the arsenal instead of the assigned firearm locker which is contrary to policy. In addition, when the firearm was located, it was found to be loaded, again contrary to policy.

- The amount of ammunition stored in the lockers of four members did not agree to the amount of ammunition assigned to the members as recorded in the inventory system. In one of the four instances there was ammunition missing, while in the other three instances the member either had more than the assigned amount or was not carrying all the required rounds with them.

- There were six members who did not have their pepper spray stored in the locker as required by policy.

- We also attended an inspection of the firearms lockers in Corner Brook and Labrador West in November 2002. While we did not observe any infractions in Labrador West, we observed three infractions in Corner Brook. There were two members who had their loaded firearm stored in their firearms locker and the locker of one member did not contain their assigned pepper spray.

- In conducting the monthly firearm locker inspections, the Royal Newfoundland Constabulary uses firearm locker assignment listings which include locker number, member's name, firearm serial number, rounds of ammunition issued and pepper spray serial number to match contents to what is assigned. During the inspections we attended in October and November 2002, we identified 22 instances in St. John's and 4 instances in Corner Brook where the information contained on the locker assignment listings was not accurate. These instances included duplicate locker assignments, lockers indicated as vacant actually in use and lockers used by different members than that indicated on the listing. This could result in an infraction being cited for the wrong member and also adds confusion when completing the monthly locker inspection.

- Royal Newfoundland Constabulary policy requires firearm storage lockers be inspected on a monthly basis. Our review indicated that such inspections were made at all detachments during the period November 2001 to October 2002. However, in December 2001 there is no indication that the lockers in the Tactical Response Unit's Room were included in these inspections. Also, it does not appear that the satellite offices in Conception Bay South or Torbay are included.

Royal Newfoundland Constabulary policy also requires that firearms be inspected by the Inspections Officer based on a schedule approved by the Chief of Police. The policy now requires that all personnel and equipment be inspected a minimum of twice per year by the Inspections Officer. Such inspections were carried out in the January 2002 and again during the Summer of 2002. However, although the Inspections Officer is required to report to the Chief on the results of these inspections, no such reports have been prepared. We received copies of the inspection sheets for January 2002. While there are 305 members, as of June 2002 only 120 inspection forms had been submitted. Of these 120 forms, 71 members were in compliance while the remaining 49 were found to be missing required equipment. There was, however, no indication of any problems with the firearms assigned.

- Use of force training consists of a basic one week use of force program plus four modules which are to be offered on a continual basis. Module 1 covers firearms, module 2 covers defensive tactics/handcuffing techniques/baton, module 3 covers tactical room entries/weapons retention and module 4 involves a lecture on the use of force continuum. Use of Force Policy requires that members complete module 1 annually and that the remaining three modules be completed on a cyclical basis over a three year period. During 2002, all members were required to complete modules 1 and 3.

  The Royal Newfoundland Constabulary maintains a database to track training in use of force. We reviewed the information contained in this database as of 21 November 2002. Our review indicated the following:

  - This year we tested the accuracy of the input into this system and determined that the information was neither complete nor accurate. For example, four of the nine temporary recruits were not listed in the system, dates for training were entered incorrectly, and training dates were entered in the system even though the member did not receive the training. The final example is of particular concern in that, as the system is used to determine what use of force training has already been provided and what training is left to be provided, a member may not receive all of the necessary use of force training.

  - This database contained the names of 315 individuals of whom 1 is a civilian staff member, 5 are temporary recruits and 4 had left the Force, leaving 305 current members. The database had not been updated to remove the members who had left the Force. Furthermore, there are 9 temporary recruits but only 5 are listed in the training database.
  - 12 of the 305 members in the database do not receive any sort of use of force training for medical reasons. None of these members have been issued a firearm. Of the remaining 293 members, 200 have completed module 1 in the required one year time frame, 50 are not yet due for training and the remaining 43 did not receive firearms training in the required one year time frame.
  - The database indicates that 1 of the 293 members has never completed the basic one week use of force course; however, officials of the Royal Newfoundland Constabulary indicate that this training has been provided to the member.
  - 212 of the 293 members had completed module 3 of the use of force training as of November 2002.
  - All members were required to receive module 2 training during 2001. Of the 305 members, 292 have been trained, 10 were excused for medical reasons, while the remaining 3 did not receive module 2 training in 2001 for various reasons. Policy would require that these 3 members now receive this training.

  As a result, the Royal Newfoundland Constabulary is not complying with its policy for the use of force training as 43 members have not requalified in the use of firearms in the required one year time frame.

- The Firearms Policy requires that one 12 gauge shotgun be contained in each of the six supervisory vehicles used by a Non-Commissioned Officer (Sergeant in charge of shift) and the Operational Supervisor (Staff/Sergeant in charge of a shift) for use in responding to certain threats. These firearms are to be removed at the end of each shift or during prolonged absences from the vehicle. A log book has been provided to record the logging out and in of these shotguns. Our review of these log books indicated that there are instances where supervisors sign out the shotgun but do not sign the shotgun back in at the end of the shift. In addition, we identified instances where no shotgun was signed out on certain days even though the supervisory vehicles are used on a daily basis. These gaps would indicate that either the supervisor is not out on patrol, is out on patrol without the shotgun or out on patrol with the shotgun which has not been signed out. A report prepared by the Inspections Officer in February 2002 noted similar issues.

- The Firearms Policy requires members to use loading/unloading ports that are located in firearms storage areas for the loading and unloading of firearms. During attendance at the October 2002 inspection of firearms storage lockers in St. John's, we observed one member loading their firearm without using this port. In a May 2002 report from the Quality Performance Section, it was recommended that signage be placed in the gun storage area indicating safe use of loading/unloading port and proper firearms storage. To date, this signage has not been placed.

- The Firearms Policy requires that members be fully versed in the Use of Force Guidelines as outlined in the Use of Force Policy. These Guidelines provide guidance with respect to when it is appropriate to use force and the level of force required to be used in various situations. The Use of Force Policy requires that any time a member uses any type of force from simple restraint to discharging a firearm, a Use of Force Report must be filed.

  These reports are reviewed by the member's immediate supervisor, the District Inspectors and/or Divisional Commanders, and the Firearms and Use of Force Instructor, who is a member of the Use of Force Review Board established by the Royal Newfoundland Constabulary. All members of the Use of Force Review Board used to receive copies of the use of force reports; however, this was discontinued during 2002. Instances of force may also be reviewed by either the Public Complaints Commission or the Royal Newfoundland Constabulary's Professional Standards Division upon the receipt of a complaint from a member or the general public.

  Our review of this area indicated the following:

  - We have been informed that there were no complaints received by the Public Complaints Commission regarding use of firearms by members during the period 1 November 2001 to 14 November 2002.

2.19 Royal Newfoundland Constabulary Firearms Review

- There were five internal complaints received by the Professional Standards Division of the Royal Newfoundland Constabulary during the period 1 November 2001 to 14 November 2002. Four of these complaints resulted from firearm locker inspections. All four were received in October or November 2002 after the Royal Newfoundland Constabulary initiated the requirement that all infractions of the Firearms Policy be referred to the Professional Standards Division for investigation. The other complaint was also internal and involved the discharge of a firearm by a member while in the process of disarming. While there were no injuries, the bullet discharged did pass into another room. The room holding the firearms locker at this detachment is not constructed with cinder blocks. All of these complaints are still in the process of being investigated.

- A review of the Use of Force Reports indicated that there were 428 reported incidents of force between 1 November 2001 and 31 October 2002. Of these 428 incidents, 33 related to firearms, 30 of which involved drawing and/or pointing a firearm at a person while the remaining 3 involved the discharge of a firearm regarding animals.

- In May 2001, the Royal Newfoundland Constabulary commenced using a modified Use of Force Report. The report now includes a separate place to indicate whether handcuffs were used and provides space for the member, supervisor and District Commander to sign. Almost all Use of Force Reports now include the approval of the supervisor and/or the District Commander. However, as late as October 2002 the West District of the Patrol Division was still on occasion using the old form.

- Prior to December 2000, Royal Newfoundland Constabulary policy required that all Districts prepare monthly statistics on the use of force. The current policy now only requires an annual summary of use of force statistics although most Districts continue to prepare the monthly summaries. The monthly summaries provide useful information and should be prepared for all Districts.

Patrol Division and Corner Brook are preparing these monthly summaries. There is, however, a time lag in their submission to the Chief's office. In September 2002, Patrol Division submitted summaries, along with the use of force reports, for the months March 2002 to August 2002. In October 2002, Corner Brook submitted summaries and use of force reports covering the period May 2002 to September 2002.

Our review of these summaries and reports identified discrepancies in how the numbers of uses of force are being totalled. In particular, in some cases the total number of instances of force reported are being counted while in other cases just one type of force per use of force report is being counted. Also, when more than one member files a use of force report dealing with the same file, in some cases it is summarized under one entry on the summary while in other instances all reports submitted are entered. Such inconsistency can lead to wide fluctuation in reported uses of force. For instance, in February 2002, Patrol Division indicated 24 instances of force categorized as other. These included all instances indicated by members on the forms summarized that month. However in April 2002, the same Divisional Commander indicated 40 instances of force categorized as other. This count was done by number of files submitted. Our review using the same methodology used in February 2002, indicated 56 instances categorized under other.

Recommendation

The Royal Newfoundland Constabulary should comply with established policy.

Royal Newfoundland Constabulary's Response

The Royal Newfoundland Constabulary acknowledges the Auditor General's Report and has taken appropriate actions to address the issues identified in this report.

The Royal Newfoundland Constabulary through research and development has established policy to ensure control over firearms and ammunition. This organization on a continuous basis through training, inspections and reviews, ensures that this policy is adhered to and when non-compliance is discovered, appropriate corrective action is initiated.

2.19 Royal Newfoundland Constabulary Firearms Review

The Royal Newfoundland Constabulary continues to have a progressive attitute towards Use of Force training and we will continue in the future to ensure all members are trained for their safety and the safety of the general public they serve.

The Royal Newfoundland Constabulary acknowledges the fact that there were no complaints received by the Royal Newfoundland Constabulary Public Complaints Commission regarding use of firearms by members during the period November 1, 2001 to November 14, 2002. Of note, the Public Complaints Commission had no complaints for the period of November 1, 2000 to October 31, 2001.

Inventory Management

The Royal Newfoundland Constabulary concur updates were not always made on a timely basis and the inventory listing for firearms and ammunition were not always accurate due to operational requirements and human resource issues; however, the Royal Newfoundland Constabulary will endeavour to ensure adjustments are made in an appropriate time frame and internal auditing reviews will be completed periodically on the inventory system.

Firearms Policy

As identified in the Auditor General's Report, the Firearms Policy of the Royal Newfoundland Constabulary is comparable to that of other Canadian Police jurisdictions and provides specific direction to its members on the control and usage of firearms. The Royal Newfoundland Constabulary conducts continuous inspections, quality reviews and internal audits and where any non-compliance of policy is identified, appropriate action is initiated including disciplinary action where necessary.

Use of Force Training

The Royal Newfoundland Constabulary policy on Use of Force training was changed after the Auditor General Report of 2001. Prior to 2001, Use of Force training was completed by all members in a calendar year, not in a 12-month period as currently stated. With this new change and other changes, the Royal Newfoundland Constabulary failed to meet this requirement for all members. The Royal Newfoundland Constabulary is committed to ensuring that all members will receive their required training for 2002 and complete the 2003 training as required by Royal Newfoundland Constabulary policy.

2.20 Workplace Health and Safety Inspections

Introduction

The Department of Labour is responsible for monitoring and improving conditions in the workplace through the development and application of various health and safety codes, practices and standards. The Department pursues this responsibility through the administration and enforcement of the *Occupational Health and Safety Act* and *Regulations* and other related legislation.

The *Occupational Health and Safety Act* and *Regulations* outline rights and responsibilities of both employers and workers, as well as the responsibilities of the Department through its Workplace Health and Safety Inspection Division. Division activities provide for development and implementation of policies and plans associated with workplace health and safety, and monitoring and improving safety conditions through inspections of worksites to ensure compliance with applicable legislation.

In September 2002, the Division had a total of 36 staff located in offices in St. John's (26), Corner Brook (6), Grand Falls (2) and Labrador City (2). The 36 staff consisted of 1 director, 2 managers, 1 program coordinator, 19 occupational health and safety officers, 6 staff assigned to specific occupational areas, and 7 administrative support staff. For the year ended 31 March 2002, the Division incurred costs totalling $2.7 million, of which $2 million related to salary costs.

As part of their duties, occupational health and safety officers conduct workplace inspections to determine compliance with the provisions of the *Occupational Health and Safety Act* and *Regulations* and other related legislation. Such inspections can occur as a result of planned activity by the Division or as a result of workplace complaints or reports of accidents at the workplace. If violations are identified through the inspections, a formal written directive is issued to the employer which identifies the violation and provides a deadline to have the violation remedied. In cases where a more immediate health and safety risk is identified, the officer may issue a stop work order.

The Division's information system indicates that the Division has conducted approximately 2,000 inspections during each of the past five years.

Scope and Objectives

We completed our review of workplace health and safety inspection activities at the Division in September 2002. Our review included an analysis of workplace health and safety inspections from 1 April 2000 to 31 March 2002. Our objectives were to determine:

- whether there is an adequate process in place at the Workplace Health and Safety Inspection Division to determine if employers are complying with the *Occupational Health and Safety Act* and *Regulations*;

- whether the Workplace Health and Safety Inspection Division has a process in place to monitor its administration of the workplace health and safety inspection program; and

- whether there is adequate and appropriate reporting of workplace health and safety inspection activity to the House of Assembly.

Conclusions

Our review indicated that activities at the Workplace Health and Safety Inspection Division require improvement to meet the Department's responsibilities for monitoring and improving conditions in the workplace. In particular:

- Information on employer workplaces in the Province maintained by the Division is neither complete nor current. The Division maintains information on approximately 15,000 employer workplaces. This information is based on data obtained from the Workplace Health, Safety and Compensation Commission in June 2000 and has not been updated since that time. The Commission's database does not include information on all separate workplaces operated by each employer; however, documentation available to the Division from the Commission indicates that the actual number of employer workplaces in the Province is likely to be in excess of 20,000. This represents an increase of 5,000 or 33% over the number of workplaces currently contained in the Division's database. As a result of not having a complete listing of employer workplaces, the Division's ability to carry out its occupational health and safety mandate is diminished.

- The required inspection activity identified by the Division as a priority was not performed. For example, the Division identified 208 workplaces for inspection in 2001-02 (180 in 2000-01). However, in 2001-02, the Division's information system indicated that only 51 (25%) of the 208 planned inspections were completed. Similarly, in 2000-01 only 57 (32%) of the 180 planned inspections were completed.

As well, regular inspections are not based on any comprehensive risk analysis which would provide a rational basis for the entire Division in determining which employer workplaces are to be inspected and the frequency and timing of planned inspections.

- The Division cannot demonstrate whether employers are complying with the *Occupational Health and Safety Act* and *Regulations* as inspection reports are not always fully completed by the occupational health and safety officers. Furthermore, the inspection report, as designed by the Division, does not provide a listing of the main areas for inspection under the *Act* and *Regulations* to ensure these areas have been covered during the inspection. There is also no provision on the inspection report for a conclusion by the officer on whether the workplace complied with the *Act* and *Regulations* or to document the officer's assessment of risk for the workplace which could be used to monitor the workplace for planning future inspections.

- Instances were found where no evidence was provided to indicate whether directives issued by occupational health and safety officers were complied with by employers. Other instances were found where there was inadequate documentation provided by officers relating to their investigations of accidents and complaints.

- Significant delays were identified in issuing inspection reports to employers after inspections were performed, forwarding completed inspection reports for review, conducting planned follow-up inspections, and completing accident investigation reports.

- Inspection reports and reports from the Central Information System were not always being reviewed. In addition, information in the Central Information System is neither accurate nor updated on a current basis.

- The Division is not providing adequate and appropriate information to the Department on workplace health and safety inspection activity and there are no reports on Division activities provided to the House of Assembly.

2.20 Workplace Health and Safety Inspections

Findings and Recommendations

Identification of Employer Workplaces

Under the *Workplace Health, Safety and Compensation Commission Act,* all incorporated and non-incorporated businesses as well as partnerships and sole proprietors that hire workers in the Province, are required to register with the Workplace Health, Safety and Compensation Commission. The Commission maintains information on employer workplaces which it shares with the Workplace Health and Safety Inspection Division of the Department of Labour.

In January 1996, the Division obtained employer workplace information from the Commission and entered the information into its Central Information System. This system is used for the purpose of identifying and locating employer workplaces in the Province and for recording inspection activity. Our review indicated that the Department has only obtained updated information from the Commission once since 1996. This occurred in June 2000. Based on this information, the Division's database has approximately 15,000 employer workplaces.

The Commission's database does not include information on all separate workplaces operated by each employer. Therefore, the number of separate workplace locations is greater than the number of employers. Documentation available to the Division from the Commission indicates that the actual number of employer workplaces in the Province is likely to be in excess of 20,000. This represents an increase of 5,000 or 33% over the number of workplaces currently contained in the Division's database.

As a result of not having a complete listing of employer workplaces, the Division's ability to carry out its occupational health and safety mandate is diminished.

Selection of Workplaces for Inspection Activity

The Division identifies employer workplaces for inspection based on such factors as:

- Accident statistics reported by the Workplace Health, Safety and Compensation Commission are categorized by the Division into Priority A and Priority B. Priority A includes employers which have had five or more reported lost time accidents in at least two of the three previous calendar years of three days or more duration. Priority B includes employers which have had between one and four reported lost time accidents in at least two of the three previous calendar years of three days or more duration.

- Inspectors' personal knowledge of their assigned areas and field observations.
- Reports of complaints or serious accidents.
- Follow-up to previous inspections where violations of the *Act* and *Regulations* were identified.

Figure 1 provides information from the Division's information system on the number and type of inspections performed during the last two years.

Figure 1

Workplace Health and Safety Inspection Division
Workplace Inspection Activity
Years Ended 31 March

	2002	2001
Inspection Statistics		
Initial Inspections	1,264	1,296
Follow-up Inspections	410	475
Complaint, Accident, or Other Investigations	354	408
Total Inspections Conducted	2,028	2,179
Total Employers Inspected	764	944
Employers Identified (Note 1)	15,000	15,000
Percentage of Employers Inspected	5.1%	6.3%

Source: Department of Labour Central Information System
Note 1: Based on 1996 information obtained by the Division from the Workplace Health, Safety and Compensation Commission, updated by Division in June 2000

Our review of the process used by the Division to select employer workplaces for inspection activity indicated that the Department's priority is to respond to accidents and complaints as they occur. The Division has also indicated that Priority A inspections have a higher priority than regular inspections. Regular inspections, including Priority B, are performed as time permits.

2.20 Workplace Health and Safety Inspections

Our review of inspections performed during the year indicated the following:

- Although the Division has indicated that Priority A employer workplaces have a higher priority than regular inspections, not all Priority A inspections are being performed. For example, the Division identified 208 workplaces for inspection in 2001-02 (180 in 2000-01). However, in 2001-02, the Division's information system indicated that only 51 (25%) of the 208 planned inspections were completed. Similarly, in 2000-01 only 57 (32%) of the 180 planned inspections were completed.

  There was time available to complete more Priority A inspections as evidenced by the fact that the Division performed approximately 1,200 other regular inspections even though they were not considered as high a priority. As a result, the required inspection activity identified by the Division as a priority was not performed. Division officials indicated that Priority A inspection work is allocated based on geographic area and not distributed evenly among all inspectors.

- Our review indicated that the regular inspections performed during the year are selected on an ad hoc basis by the inspectors. While these inspections are based in part on the inspectors' knowledge of the area, they are not based on any comprehensive risk analysis. A comprehensive risk analysis would include such things as the results of past inspection activity, high risk occupations, and employers who repeatedly fail to comply with the *Occupational Health and Safety Act* and *Regulations*. Such an analysis would provide a rational basis for the entire Division in determining which employer workplaces are to be inspected and the frequency and timing of planned inspections.

Inspection Activity

1. Initial Inspections

The *Occupational Health and Safety Act* provides the Occupational Health and Safety Division with the authority to inspect employer workplaces to ensure the health and safety of workers or other persons near the workplace. An integral part of the inspection process requires occupational health and safety officers to document their findings on an inspection report, including documentation supporting the issuance of directives or stop work orders when violations of the *Act* and *Regulations* are identified.

2.20 Workplace Health and Safety Inspections

Our review of inspection activity by the Division included the identification of 100 inspections completed from 1 April 2000 to 28 February 2002. At the time of our review 6 of the 100 files could not be located by the Division. Our review of the remaining 94 inspections disclosed the following:

- Occupational health and safety officers are not always fully completing the inspection reports. Furthermore, the inspection report, as designed by the Division, does not provide a listing of the main areas for inspection under the *Act* and *Regulations* to ensure these areas have been covered during the inspection. There is also no provision on the inspection report for a conclusion by the officer on whether the workplace complied with the *Act* and *Regulations* or to document the officer's assessment of risk for the workplace which could be used to monitor the workplace for planning future inspections. As a result, the Division cannot demonstrate whether employers are fully complying with the *Occupational Health and Safety Act* and *Regulations*.

- Controls over the filing and processing of inspection reports were inadequate and resulted in the Division not being able to monitor inspection activity in a timely manner. The Division's policy requires that after an inspection has been completed, details from the inspection report are to be input in the Division's Central Information System and the report filed in the Department's registry. Of the 94 inspection files reviewed, only 46 reports had been filed in the Department's registry. Reports for the remaining 48 inspections were in the possession of various staff in the Division. Significant delays were identified in processing completed inspection reports received from the officers, with one officer not submitting completed inspection reports for review for an 11 month period.

- The results of inspections were not communicated to employers in a timely manner. The Division's policy requires that inspection reports be provided to employers prior to leaving the workplace. For 23 of the 94 inspections reviewed, a copy of the report was not provided to the employer prior to leaving the workplace. The time between completion of the inspection and the report being provided to the employer ranged from within 1 day of the inspection to more than one year after the inspection.

- Reports for 4 of the 94 inspections reviewed were not signed by an appropriate employer representative as required by Division policy.

- In the 49 of 94 inspections where directives were issued, a total of 146 directives were issued resulting from the inspection. Two directives reviewed did not specify a time frame for completion and three directives were not signed by the employer as required by Division policy.

  There were also 3 stop work orders issued. In 2 of these instances there was no evidence that the stop work order notice was displayed at the workplace as required by Division policy. Discussions with officers indicated that they are not always willing to display the stop order notice as the notice format is outdated and incorrectly references the *Act*.

2. Follow-up Inspections

Follow-up inspections are conducted to determine whether employers have complied with the direction provided by occupational health and safety officers. These follow-up inspections are to be conducted within a few days after the date provided to the employer for required compliance. Division policy indicates that an inspection file is not considered complete or closed until all directives or stop work orders issued during the initial inspection have been complied with. When officers perform a follow-up inspection they are required to document in an inspection report whether the employer has complied with the directive or stop work order previously issued.

Of the 94 inspection files examined, 49 resulted in 146 directives and 3 stop work orders being issued. Our review of follow-up inspections in relation to the directives and stop work orders disclosed the following:

- There was no consistency in the time frames provided to employers to correct identified health and safety hazards. Instances were noted where officers provided different deadlines to employers for addressing the same type of violation.

- In 13 of the 49 inspection files, immediate correction of the violation by the employer was noted as being required. Division staff indicated that in these situations an officer would not prepare a follow-up inspection report but would be expected to note in the initial inspection report whether the directives or orders issued during the inspection were complied with. While in these instances there was nothing indicated on the initial inspection reports to indicate whether the directives or orders were actually complied with, the Division's information system did indicate immediate compliance.

- In 36 of the 49 inspection files, a specific date for correction of the violation was indicated on the inspection report. Our review of the 36 files indicated the following:

    - For 20 files, there was no follow-up inspection report contained in the file to evidence that an inspection had been completed. In 17 of these files, while the officer did indicate in the information system that the directives or orders had been complied with, there was no inspection report available. For 11 of these 17 follow-up inspections, the inspector did not indicate compliance in the system until between one week and over one year after the required employer compliance date stated in the directive.

    - For 11 files, there was a follow-up inspection report completed; however, they were not conducted in a timely manner. For example, these follow-up inspections were not conducted until between one week and over one year after the required employer compliance date stated in the directive. Furthermore, for 3 of these 11 there was no indication of compliance with the directive or order and for 2 of these 3 the follow-up inspection reports were not signed by an appropriate employer representative as required by Division policy.

    - For 5 files, the follow-up inspection reports were prepared in accordance with policy.

3. Investigations

The Department investigates reports of workplace accidents and complaints of unsafe working conditions. The details of all reported accidents and complaints are immediately recorded into an Incident Report Form and input into a computer database upon receipt. Generally, accidents which result in a fatality, a serious injury, or major property damage are investigated immediately. Complaints which raise matters of immediate potential threat to life, limb or health are also investigated immediately. In other cases, complainants are encouraged to resolve the matter internally through their immediate supervisor, Occupational Health and Safety Committee or worker representative. Failing this, an officer will investigate the accident or complaint as soon as it is practical.

2.20 Workplace Health and Safety Inspections

(a) Response Time for Accidents and Complaints

Our review of the database of accidents and complaints indicated that from 1 April 2000 to 31 March 2002, there were 1,061 reported accidents, incidents and complaints. We selected 25 accidents and complaints which were considered to require immediate investigation to determine why no immediate investigation was performed. From discussions with officials at the Department we determined the following:

- In 13 cases, the Department provided an adequate explanation for why an immediate investigation was not performed.
- In 7 cases, the Department indicated that it did not have sufficient staff available for an immediate investigation; however, the investigations were completed within one week of the initial notification of the accident or complaint.
- In 5 cases, the Department could not provide an explanation as to why there was no immediate investigation or whether an investigation had taken place.

(b) Accidents

Accident investigation reports are prepared by the Division for accidents involving a fatality, serious injury or major property damage. The accident investigation report must include an inspection report and any applicable directives or orders that were issued. Officers are required to submit completed accident investigation reports within 30 days from the date of the accident. We examined 7 accidents reported for the period 1 April 2000 to 31 March 2002 and found that:

- In 3 of the 7 reported accidents, while an officer did visit the worksite and completed an inspection report, no accident investigation report was prepared and the information contained in the inspection report did not sufficiently document the cause of and extent of injuries suffered in the accident and any recommended action.

    - In 4 of the 7 reported accidents, an accident investigation report was prepared; however, the reports were not completed within 30 days of the accident as required or there was no date on the report to determine whether it was completed within the required 30 days.

(c) Complaints

Upon receipt of a complaint, an incident report form is prepared by the Division and assigned to an officer for follow-up. The officer documents the results of the incident investigation on the incident report form, including what action was taken to address the complaint.

We examined 20 complaints reported for the period 1 April 2000 to 31 March 2002. We found that for 4 complaints, the information maintained by the Division was not sufficient to determine what action had been taken by the officer. For the remaining 16 complaints, the information maintained was sufficient to determine that appropriate action was taken.

Monitoring Inspection Activity

Division officials advised that inspection activity is monitored through regular discussion with occupational health and safety officers, staff meetings, and the review of various reports on inspection activity. Our review of the Division's monitoring activities indicated the following:

- There was no evidence that inspection reports prepared by officers were being reviewed.
- Reports from the Central Information System were not always being reviewed.
- Inspection information in the Central Information System is neither accurate nor updated on a current basis. In particular:
    - Inspection activity maintained electronically by inspectors is only transferred to the Division's Central Information System by the inspectors on a monthly basis and as such any monitoring information provided from these reports is at least one month old.

- There were significant delays by the officers in forwarding completed inspection reports for review. For example, an officer did not submit completed inspection reports for review for an 11 month period.

- Of the 2,323 directives and 80 stop work orders issued in 2001-02, 778 (33%) and 14 (18%) respectively were reflected in the Central Information System as being outstanding in September 2002. Directives and stop work orders are considered as outstanding in the system until the officer closes the inspection by indicating compliance with the directive.

  Our review of 23 directives issued during the period 1 April 2000 to 31 March 2002, which were reflected in the Central Information System as being outstanding, indicated that 9 of the directives had actually been complied with at the time of our review but the officer had failed to update the system to close the inspection. Of the remaining 14 directives, 11 were not complied with at 31 March 2002 and the Division could not explain why the remaining 3 were reflected as outstanding.

- The Division has not established any guidance for officers on the time required for completion of each type of inspection and officers are not required to record actual time spent completing individual inspections.

Reporting Inspection Activity

An integral part of the accountability process is the provision of appropriate and timely information regarding activity in all areas of assigned responsibility. Our review disclosed that the Division is not providing adequate and appropriate information to the Department on workplace health and safety inspection activity and there are no reports on Division activities provided to the House of Assembly.

Division management does provide Department executive with monthly "flash sheets" of inspection statistics. The monthly "flash sheet" is a one page summary comparing inspection statistics for the month and year-to-date with those of the prior period.

However, with the exception of planned Priority A inspections, the Division has not established any targets or performance objectives which could be used for comparison against actual results to determine whether the Division is meeting its mandate. The "flash sheet" does not include statistics such as whether employers are complying with directives, including whether compliance is within established time frames. The provision of comparisons to target, together with explanations for any variances, as well as the provision of statistics on whether employers are complying with directives, would provide more meaningful information.

The Department has not provided any information on its workplace health and safety inspections program to the House of Assembly.

Recommendations

The Department should ensure that activities at the Workplace Health and Safety Inspection Division are adequate in meeting the Department's responsibilities for monitoring and improving conditions in the workplace. In particular, the Department should:

- *maintain complete and current information on employer workplaces in the Province;*
- *complete inspection activity identified as a priority and should base regular inspections on a comprehensive risk analysis which would provide a rational basis in determining which employer workplaces are to be inspected and the frequency and timing of planned inspections;*
- *ensure inspection reports are fully completed and that the reports provide a listing of the main areas for inspection under the* Act *and* Regulations *to ensure these areas have been covered during the inspection;*
- *ensure there is sufficient documentation to determine compliance with all areas of the* Act *and* Regulations*;*
- *ensure that inspection activity is conducted and reported in a timely manner;*
- *ensure that management monitors all aspects of inspection activity and that information used for monitoring is accurate and maintained on a current basis; and*
- *provide information on its workplace health and safety inspections program to the House of Assembly.*

2.20 Workplace Health and Safety Inspections

Department's Response

The Department obtains employer information primarily from the Workplace Health, Safety and Compensation Commission (the Commission). While the Commission's data base system is currently based on the employer assessment process, we are advised that they are currently exploring strategies to further expand their data information system to identify actual work locations. Given the Commission has already initiated this activity, it may be fiscally prudent for the Department to adapt the Division's Central Information System once this project has been completed at the Commission.

In the mean time, the Division utilizes several existing data bases as sources of information to assist in its planning activities including the existing Central Information System which has the ability to add additional employer and/or work location information as necessary. Additionally, we obtain information as necessary through the Registry of Deeds and the Newfoundland Statistics Agency, Department of Finance. For example, the Division utilizes NSA information to identify changes in employment trends by industry sectors which can then be compared to WHSCC claims information by industry sector. While more detailed work site location may be desirable, the Division employs a number of planning tools in identifying areas of focus for inspection activity.

While the Department does not have a formal comprehensive risk analysis system, Division management and officers utilize a number of systems to assist in planning proactive activities. These systems include WHSCC claims information which can be used to provide information on a wide variety of parameters including on an employer/industry basis, occupation, type of injury etc. as well as review of joint occupational health and safety committee minutes, and our collective knowledge and experience regarding industry trends in relation to the frequency and severity of incidents and accidents. In addition to provincial trends, our staff participate in regional and national forums and initiatives which further expand our knowledge and expertise in addressing emerging workplace issues on a proactive basis. Given the Auditor General's recommendation however, we have initiated an informal survey of other OHS jurisdictions in relation to a formal comprehensive risk analysis system and will evaluate the applicability and efficacy of implementing a similar system in this province if indeed one exists elsewhere.

With respect to the Division's ongoing strategic inspection list, while the Department recognizes the importance of developing and implementing proactice strategies, a significant percentage of our field activities are client driven and require a response on a reactive basis. These activities include response to reports of accident/incidents, complaints *investigation and/or follow-up, investigation of work refusals, prosecutions and on-going inspection of seasonal and/or transient operations. Our priority inspection list is one tool that managers and officers utilize in planning the inspection activities of the Division. While it would be desirable to complete this list on an annual basis, our policy does not specify that strategic inspections are mandatory but that they are to be given a high priority in relation to "routine" inspections.*

Additionally, while only a certain percentage of the priority inspections were coded in the Central Information System as either a "Required (Strategic) or Regular Inspection", our data base system was recently modified to allow for only one "Reason" to be toggled, from a pick list of several options, in order to address potential over reporting of actual inspections statistics. Consequently, our staff were instructed to choose the one "Reason" for entering a particular workplace and as such, if that reason was as a result of a complaint or accident investigation, then the activity would be coded as such and not as a "Required (Strategic) Inspection".

Given the issues raised in relation to this matter in the Auditor General's Report, the Division will evaluate the policies and procedures associated with the Strategic Inspection List and make adjustments as necessary once this review has been completed. Additionally, Commission and departmental officials are currently finalizing a Provincial Accident Prevention Strategy which will incorporate issues such as targeting initiatives, joint strategic interventions, awareness and training initiatives etc., strategies aimed at focusing inspection and prevention resources to maximize reductions in injury and illness trends.

In early 2002, the Workplace Health and Safety Inspections Division obtained Treasury Board approval to increase inspection and management staff and realign the Division to address workload imbalances particularly at the management level. Consequently, two additional management positions are under active recruitment. The positions are the Manager of Occupational Health and Manager of Compliance and Regulatory Affairs. The Division recognized that there were particular areas in relation to aspects of compliance activities (i.e. documentation review and further policies and procedures development) that required improvements and the Division is committed to following through to ensure that all aspects of the Division's compliance activities are adequately documented, monitored and in accordance with relevant and prescribed policy.

As well, we have created senior officer positions which are aligned by industry sector so as to ensure that 1) there exists a formal process to maintain in-house expertise in relation to hazards associated with these industries, 2) a person is designated as being responsible to oversee and assist in the development policies and enforcement strategies in relation to these industries, and 3) a process to liaise with industry stakeholders is established to keep current on relevant and emerging issues that may impact on health and safety within that industry sector.

While we acknowlege that our policy manual would require than an officer normally leave an inspection report prior to leaving the workplace, in some instances, this is not always possible for any number of valid reasons.

We acknowledge that our policy manual requires that accident investigation reports be completed within thirty days. Our experience has been however that this is not practical in most cases and given the complexity of most of the accidents we investigate. We recognize that thirty days to complete most investigations and/or reports is not realistic and as such will be revising our policy accordingly. As well, one of the key areas of responsbility for our Compliance and Regulatory Affairs division will be to provide assistance to field officers to expedite the investigative and documentation processes.

The Inspections Division has in the past published annual reports and continues to post annual inspections statistics on its website. Commencing in 2003 the Department of Labour will prepare and table an Annual Report for public review.

2.21 Workplace Health, Safety and Compensation Commission

Introduction

The Workplace Health, Safety and Compensation Commission was established in 1951. The Commission is responsible for administering programs for the payment of benefits to injured workers and dependants, rehabilitation of injured workers, setting rates and collecting employer assessments, and making investments necessary to ensure adequate funding for services. In 1998, the Commission's mandate was expanded to include the Occupational Health and Safety Programs Division of the Department of Environment and Labour. The Commission is governed by a ten member Board appointed by the Lieutenant-Governor in Council and reports to the House of Assembly through the Minister of Labour.

The Commission is funded through employer assessments and income earned on investments maintained in an investment portfolio. At December 2001, the Commission reported that there were approximately 14,700 registered employers' accounts covered by Workplace Health, Safety and Compensation Commission programs.

Prior to 1984, the Commission had a disability system in place which compensated injured workers based upon the nature of their disability. In 1984, the Commission implemented a wage loss system which compensated workers on an ongoing basis for their loss of income from a disability.

In the early 1990s, the Commission found that, due to a lack of historical claim information, it was not able to reasonably estimate the future costs associated with injuries which had already occurred. However, actuarial studies carried out estimated the future liabilities of the Commission including the portion of the future liabilities for which there was no funding. This is referred to as the "unfunded liability."

Figure 1 outlines financial information of the Commission, including the unfunded liability, for the past five years.

2.21 Workplace Health, Safety and Compensation Commission

Figure 1

Workplace Health, Safety and Compensation Commission
Financial Information
Years Ended 31 December
($ Millions)

	1997	1998	1999	2000	2001
Assessment Revenue	85.0	94.8	103.6	121.0	133.3
Unfunded Liability Assessment	13.4	13.4	13.4	13.4	4.2
Investment Income	26.5	26.7	28.0	32.0	29.2
Total Revenue	124.9	134.9	145.0	166.4	166.7
Claims Costs	98.2	134.7	191.3	165.7	147.7
Administration and Other	18.7	19.2	22.2	22.9	26.7
Total Expenses	116.9	153.9	213.5	188.6	174.4
Surplus (Deficiency)	8.0	(19.0)	(68.5)	(22.2)	(7.7)
Unfunded Liability, Beginning of Year	(99.4)	(91.7)	(111.1)	(179.9)	(202.3)
Appropriation (to) from Reserve Fund	(0.3)	(0.4)	(0.3)	(0.2)	10.0
Unfunded Liability, End of Year	(91.7)	(111.1)	(179.9)	(202.3)	(200.0)

Source: Workplace Health, Safety and Compensation Commission's 2001 Annual Report

As the Figure indicates, the Commission has a significant unfunded liability. In November 2000, we completed a review to assess the status of the unfunded liability.

That review concluded that, as at 31 December 1999, the unfunded liability was $180 million which was almost the same as the unfunded liability in 1991 when the Commission embarked on its strategy to eliminate the unfunded liability by 2012. While the Commission was able to make positive strides between 1991 and 1997, there was a significant deterioration in its financial position in 1999.

2.21 Workplace Health, Safety and Compensation Commission

Scope and Objective

We completed our review in October 2002. Our objective was to update the review performed in 2000 of the unfunded liability at the Workplace Health, Safety and Compensation Commission.

Conclusions

In 1991, the Commission developed a strategy to address its unfunded liability, which at that time was $176 million. Although the Commission made progress in reducing its unfunded liability to $92 million by 1997, by 2001 the unfunded liability had increased to $200 million.

The Commission concluded that the strategy developed in 1991 to eliminate the unfunded liability was no longer attainable. A Task Force was established in 2000 to address the overall workers' compensation system, including the unfunded liability. To complement the findings of the Task Force, the Commission developed a five year strategic plan for 2002-06. The strategic plan outlines various goals which, if achieved, will reduce the unfunded liability. Although the plan does not quantify the reduction in the unfunded liability or the time frame over which this reduction will be achieved, Commission officials indicated that its strategy is to eliminate the unfunded liability by 2020.

The unfunded liability of the Commission has to be closely monitored, on a priority basis, by the Commission and Government to ensure the continued viability of the workers' compensation system.

Detailed Findings

Commencing in 1992, the Commission calculated the amount to be recovered from assessments each year so as to fully fund current year accidents and amortize the unfunded liability. The amortization of the unfunded liability was calculated over a 20 year period with a target date of 2012 for the Injury Fund to be fully funded. Figure 2 summarizes the Commission's objective to fully fund the unfunded liability by 2012 and indicates the Commission's progress towards this objective from 1993 to 2001.

2.21 Workplace Health, Safety and Compensation Commission

Figure 2

Workplace Health, Safety and Compensation Commission
Unfunded Liability - Projected and Actual
As of 31 December
($ Millions)

Amortization of Unfunded Liability			Difference
Year	**Projected**	**Actual**	
1993	134.1	134.1	-
1994	131.0	133.0	(2.0)
1995	127.6	117.2	10.4
1996	123.9	99.4	24.5
1997	119.9	91.7	28.2
1998	115.6	111.1	4.5
1999	110.9	179.9	(69.0)
2000	105.9	202.3	(96.4)
2001	100.5	200.0	(99.5)
2002	94.6		
2003	88.2		
2004	81.3		
2005	73.8		
2006	65.7		
2007	57.0		
2008	47.6		
2009	37.4		
2010	26.4		
2011	14.5		
2012	–		

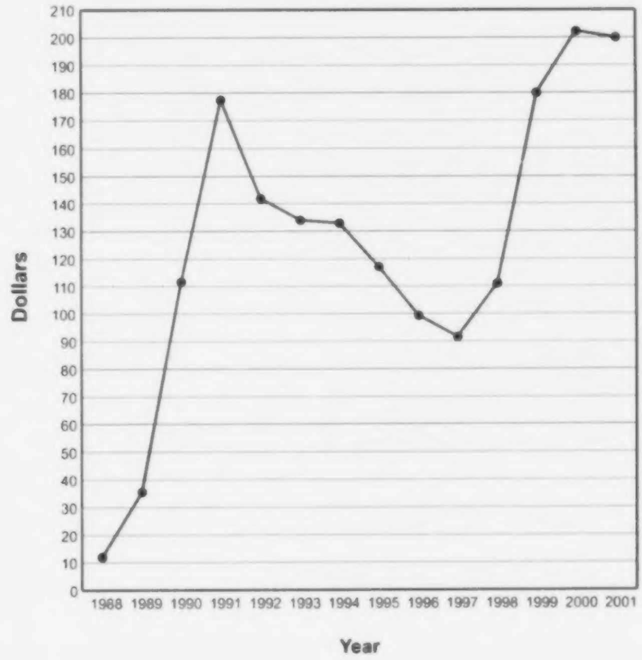
Source: Workplace Health, Safety and Compensation Commission

2.21 Workplace Health, Safety and Compensation Commission

Figure 3 shows the unfunded liability from 1988 to 2001 as reported in the Commission's audited financial statements.

Figure 3

Workplace Health, Safety and Compensation Commission
Unfunded Liability
31 December
($ Millions)



Source: Audited Financial Statements

As indicated in Figure 2 and Figure 3, although the Commission made progress in reducing its unfunded liability to $92 million in 1997, by 2001 the unfunded liability had increased to $200 million.

Significant reasons for the changes in the Commission's unfunded liability are as follows:

From $13 million in 1988 to $176 million in 1991:

- In 1989, an actuarial study was carried out to estimate the future liability for injuries that had occurred up to that time. As a result, the unfunded liability increased from $13 million in 1988 to $35 million in 1989.

2.21 Workplace Health, Safety and Compensation Commission

- In 1990, another actuarial study was performed which resulted in a further adjustment of the unfunded liability to $113 million, an increase of $78 million. Of the $78 million, $51 million resulted from a change in policy whereby indexing was applied to the liability for outstanding claims.

- In 1991, the unfunded liability was $176 million, an increase of $63 million, $47 million of which resulted from an actuarial adjustment. The remaining $16 million increase was due to the inclusion of reserves in the calculation of the unfunded liability. In this same year, the Commission prepared a financial strategy to address the problem of the increasing unfunded liability. The Commission found that revenues received from employer assessments had not kept pace with growing program costs and consequently the unfunded liability continued to grow.

From $176 million in 1991 to $92 million in 1997:

- In 1992, the unfunded liability decreased by $33 million to $143 million. This decrease was caused, for the most part, by changes in legislation which resulted in reduced benefits to injured workers.

- Prior to 1993, the Commission's expenses had exceeded revenues. Commencing in 1993 and continuing through to 1997, reported revenues exceeded expenses, primarily due to the unfunded liability assessment which resulted in annual revenue of $13.4 million. The effect was a reduction of the unfunded liability from $143 million in 1992 to $92 million in 1997.

From $92 million in 1997 to $200 million in 2001:

- In 1998, amendments to legislation provided for an increase in benefits for injured workers and survivors.

- Changes in administrative procedures resulted in more extended earning loss awards at a higher average cost per award.

- During the period, there was a significant increase in the injury rate and duration of claims.

2.21 Workplace Health, Safety and Compensation Commission

In the Commission's annual report for the year ended 31 December 2000, the Chairperson reported that the target of eliminating the unfunded liability by 2012 was no longer attainable. It was noted in the Report that *"By the year 2000, only radical intervention would stop a complete collapse of the system within 15 years. The workers' compensation system in Newfoundland and Labrador was in a precarious financial position. Assessment revenue was no longer sufficient to meet rapidly increasing costs and, as a result, the viability of the system was uncertain."*

In October 2000, a Task Force, consisting of five members of the Board of Directors, began a complete review of the workers' compensation system. In November 2000, the Task Force released a discussion paper and introduced a public consultation process to provide stakeholders with an opportunity to make representation through written submission or public meetings throughout the Province. In February 2001, the Task Force presented its report to Government.

The Task Force Report included a number of recommendations, with an emphasis on prevention of workplace injuries. Other recommendations included the introduction of a mandatory cooperative return-to-work model, increased enforcement by the Commission to prevent fraud and system abuse, increased enforcement of legislation by the Department of Labour, changes to the method of applying assessment rates to employers and better delineation of entitlement and benefit provisions in legislation.

To complement the Task Force Report, in 2001 the Commission developed a five year strategic plan for 2002-06. The action plan identified the following key goal areas:

- Prevention Focus Achieving Results;
- Injured Workers and Employers Better Served;
- Financially Secure;
- Stakeholders Sharing Responsibility for Changes;
- Commission Operating More Efficiently; and
- Knowledgeable Employees Satisfied and Retained.

The strategic plan outlines various goals which, if achieved, will reduce the unfunded liability. Although the plan does not quantify the reduction in the unfunded liability or the time frame over which this reduction will be achieved, Commission officials indicated that its strategy is to eliminate the unfunded liability by 2020.

2.21 Workplace Health, Safety and Compensation Commission

Commission's Response

The Board of Directors of the Workplace Health, Safety and Compensation Commission ("the Commission") agree the continued viability of the workers' compensation system is of paramount importance. The Task Force recognized that it was not possible to eliminate the unfunded liability by the earlier target of 2012 and that without participation and support of all stakeholders the system would face a financial crisis. The Task Force report recommended a number of key measures to address the unfunded liability of the Commission.

The Commission has developed a strategic planning process to ensure the issues raised by the Task Force are effectively addressed. The Board has not set specific, annual dollar reductions in the unfunded liability. However, the strategic direction of the Commission is to eliminate the unfunded liability by 2020. The Commission's Strategic Plan, which is being implemented in five year increments, sets annual goals out to 2006. It is expected that at the end of the initial five year period the Commission's funding position will reach 80%, the highest funding level to date. Given that there are two major components to the funded position, namely the injury fund and the benefits liability, which change because of very different factors, the Commission's plan focuses on the percentage funded rather than attempting to quantify a specific dollar target. This approach is consistent with that taken by all Boards and Commissions across Canada.

2.22 Expenditures Related to September 11th

Introduction

On the morning of September 11, 2001 the world became aware of a series of plane crashes into the World Trade Center and the Pentagon in the United States. Shortly afterward, officials of this Province were notified that US airspace had been closed and that all US bound flights had been redirected. Officials were informed that a large number of aircraft could be expected to be diverted to Newfoundland and Labrador.

Grounded Aircraft at Gander

Information obtained from the Newfoundland and Labrador Emergency Measures Organization (NLEMO), a division of the Department of Municipal and Provincial Affairs, on aircraft diverted to this Province is outlined in Figure 1.

2.22 Expenditures Related to September 11th

Figure 1

September 11 Airplane Diversion Airplanes and People Diverted to Newfoundland and Labrador

Municipality	Number of Aircraft	Number of Crew and Passengers
Gander	38	6,500
St. John's	27	4,200
Stephenville	7	1,108
Goose Bay	5	816
Deer Lake	1	5
Totals	78	12,629

These passengers and crew required food, medical care, clothing, accommodations, transportation and access to communications during their stay in the Province, which lasted approximately one week. These services were provided by Government, through its emergency response organization and departments, and by municipalities, volunteer groups and citizens.

Scope and Objective

We completed a review of expenditures incurred by Government related to the September 11 airplane diversion. Our objective was to review the expenditures to determine whether they were authorized, adequately supported and approved prior to payment.

Conclusions

We recognize that the diversion of aircraft to Newfoundland and Labrador on September 11, 2001, presented unique challenges to Government officials and others involved in responding to the provision of emergency services to the thousands of stranded passengers and crew. While the emergency situation resulted in instances where the acquisition of certain goods and services had to be made as emergency purchases, there was adequate time for officials to have controls in place to ensure that all payments were adequately supported and approved prior to payment.

2.22 Expenditures Related to September 11th

Our review of the payments made in relation to the September 11 emergency indicated that, in certain instances, documentation used as support for payments was inadequate. The documentation was considered inadequate in that it did not have sufficient information or detail in support of the amount claimed. We also noted instances where duplicate payments were made to suppliers.

There were several instances where expenses were incurred and paid directly by Government, but were not subject to a public tender process due to the emergency nature of the purchases. However, these exceptions were not reported to the Minister of Works, Services and Transportation, and subsequently to the House of Assembly, as required under the *Public Tender Act*.

Findings and Recommendations

In December 2001, Cabinet approved funding for the payment of expenditures related to the September 11 aircraft diversion through the transfer of $2 million from the Canada-Newfoundland Infrastructure Program to the Emergency Measures activity within the Department of Municipal and Provincial Affairs. The Department was authorized to make payments respecting invoices received from organizations engaged either directly by the Province or by agencies comprising the emergency response teams. Also, the Department of Human Resources and Employment was assigned to provide accommodations and transportation requirements. All payments related to costs incurred by the Department of Human Resources and Employment were paid by the Department of Municipal and Provincial Affairs.

At the fiscal year ended 31 March 2002, total expenditures related to the September 11 aircraft diversion amounted to $1,829,097. Figure 2 provides information on amounts paid to companies and organizations.

2.22 Expenditures Related to September 11th

Figure 2

Department of Municipal and Provincial Affairs
Expenditures Related to September 11 Aircraft Diversion
Year Ended 31 March 2002

Entity	Amount
The Salvation Army	$282,873
City of St. John's	260,533
Royal Newfoundland Constabulary (overtime)	159,264
Central East Health Care Institutions Board	134,426
Newtel Communications Inc.	101,953
Lewisporte-Gander School District	83,071
Town of Gander	75,779
Delta St.John's Hotel	67,789
Holiday Inns	57,956
Memorial University of Newfoundland	55,133
Department of Human Resources and Employment (overtime)	43,674
Wal-Mart Canada	40,423
DRL Coachlines Ltd.	32,250
Department of Municipal and Provincial Affairs (overtime)	19,332
Other	414,641
Total	$1,829,097

Source: Government's Financial Management System

As expected, the emergency situation resulted in instances where the acquisition of certain goods and services had to be made as emergency purchases in September. However, payments for these goods and services totalling $1.83 million did not commence until December 2001. Therefore, there was adequate time for officials to have controls in place to ensure that all payments were adequately supported and approved prior to payment.

2.22 Expenditures Related to September 11th

1. Controls over Payments

We reviewed 30 payments, totalling $1.14 million, to entities involved in the emergency response. Most of the charges related to the emergency response can be categorized as accommodations, food, transportation, communications, and staff overtime. Our review indicated a number of issues as follows:

(a) Support for Payments

Our review of the payments made in relation to the September 11 emergency indicated that, in certain instances, documentation used by the Departments of Municipal and Provincial Affairs and Human Resources and Employment as support for payments was inadequate. The documentation was considered inadequate in that it did not have sufficient information or detail in support of the amount claimed. For example, documentation on file consisted of only summary information, estimated costs or manual listings without detailed support. As a result, in these situations, the Department could not assess the appropriateness of the invoices.

Documentation for the following payments was considered to be inadequate:

- An invoice for $71,062 relating to various food supplies and meals provided at various locations did not provide any information on either the quantities, types or cost of food supplies or information on the number of meals, the types of meals provided, and the cost per meal served.
- An invoice for $32,250 relating to transportation costs did not provide any information on the number of trips made, cost per trip, or type of vehicle supplied.
- An invoice for $17,052 relating to meals and accommodations did not provide any information on the amounts charged.

(b) Duplicate Payments

During our review, we identified three instances where duplicate payments were made as follows:

- Two cheques for $10,609 each were paid to a supplier relating to the same invoice. This duplicate payment was detected by the supplier who returned one of the cheques uncashed.
- There was an instance where $24,522 was paid to the City of St. John's for reimbursement of long distance telephone charges. These charges were paid a second time to the supplier of the long distance services.
- A charge of $624 from the Recreation Department of the City of St. John's was billed on separate invoices and paid twice by the Department.

In addition to what we found during our sample, discussions with officials at the Department of Human Resources and Employment indicated that there were other instances of duplicate payments.

2. Non-compliance with the *Public Tender Act*

During our testing, we noted eight instances totaling $215,308 where expenses were incurred and paid directly by Government. These expenses met the normal criteria for requiring a public tender call under the *Public Tender Act*; however, due to their emergency nature, they would be exempt from tendering. In such instances, however, there is a requirement to notify the Minister of Works Services and Transportation of any exceptions so that they could be reported to the House of Assembly.

These exceptions were not reported to the Minister of Works, Services and Transportation, and subsequently to the House of Assembly, as required under the *Public Tender Act*.

Recommendations

The Department should review expenditure claims to ensure any duplicate payments made are recovered.

The Department should comply with the Public Tender Act.

Departments' Response

The Departments will review, to the extent possible, the payments which were made in relation to this event in order to ensure that if any other duplicate payments are identified they are recovered.

Action has been taken with respect to the overpayments cited in your report and these overpayments have either been repaid or will be repaid in the near future. As well, other instances of overpayments which have come to our attention have been acted upon.

Officials of the Department of Human Resources and Employment agree that the expenditures referenced in your report should have been reported to the House of Assembly as exceptions to the Public Tender Act. *The failure to do so was an oversight.*

With reference to your comments on the Departments relying on inadequate documentation to support certain payments, the Departments note that no payments were made without these payments being properly certified by applicable staff that these expenditures related to September 11, 2001. In most cases, the staff certifying the expenditures had been on the ground actively involved with the events in the various regions of the Province and they were aware of the types of expenditures incurred. Although the documentation may not always have been in line with normal documentation requirements, officials reviewed all claims for reasonableness and linkage to September 11, 2001 and where it was deemed necessary, additional documentation was secured.

2.22 Expenditures Related to September 11th

2.23 Special Assistance Fund

Introduction

The Department of Municipal and Provincial Affairs administers a Special Assistance Fund under the Municipal Financial Assistance Program. Funding for this Program is authorized by the Legislature through the annual Estimates process. The Special Assistance Fund is intended to provide grants to municipalities to assist them in dealing with emergencies of a health and/or life safety nature, general emergencies, and other initiatives as well as to assist municipalities which are experiencing financial difficulties.

Figure 1 provides information on the expenditures of the Special Assistance Fund and the number of applications approved for funding over the last four years. This information does not include amounts related to the Job Creation Program which is also administered under the Special Assistance Fund by the Department of Municipal and Provincial Affairs.

Figure 1

Department of Municipal and Provincial Affairs
Special Assistance Fund
Expenditures and Approved Applications
Years Ended 31 March

Year	Expenditure	Number of Applications Approved
1999	$4.5 million	504
2000	$3.6 million	504
2001	$4.4 million	517
2002	$5.3 million	1,271

Source: Government's Financial Management System

Scope and Objectives

We completed our review in November 2002. The objective of our review was to determine whether the Department is administering the Special Assistance Program (excluding the Job Creation Program) in accordance with Program guidelines and for purposes authorized by the Legislature.

2.23 Special Assistance Fund

Conclusions

The Special Assistance Fund is authorized by the Legislature to provide grants to municipalities. Our review indicated that the Department is providing funding to groups other than municipalities. The percentage of total funding allocated to these non-municipality groups has increased from 21% in 1999 to 56% in 2002. Although the Special Assistance Fund is budgeted under the Municipal Financial Assistance Program, in 2002, less than one half of the funding was paid to municipalities. As the funds provided for in this account were not used for the purposes authorized by the Legislature, the Department contravened the *Financial Administration Act.*

The Department is not complying with the Program Guidelines. In particular, our review of 109 approved projects indicated the following:

- In many cases, project sponsors were notified of the approval of the grant before the Finance Committee assessed and approved the project and in most of these cases, the grant had been paid to the project sponsor prior to approval by the Finance Committee.
- As of April 2001, the funding requests were no longer reviewed by the Finance Committee but by the Executive Committee of the Department comprised of the Deputy Minister and the Assistant Deputy Ministers. Unlike the Finance Committee which did document its decisions, recommendations of the Executive Committee were not documented; therefore, we could not determine whether funding decisions for any of the projects reviewed for the year ended 31 March 2002 were assessed and approved by this Committee.
- Projects were not always approved by the Minister of Municipal and Provincial Affairs. In most of these instances, the projects were approved by the Premier's Office or the Minister of Finance and were for groups other than municipalities.
- Project files did not always contain the required analysis or recommendation from the appropriate regional office or, where applicable, the Fire Commissioner's Office.
- Project sponsors did not always submit documentation, where required, to support how the funding was spent.

2.23 Special Assistance Fund

Our review of 11 proposed projects which were rejected for funding indicated that while the projects did not meet the criteria for special assistance funding, the Department was not consistent in the approval of applications for funding in that other projects had been approved for funding for the same purpose. As well, 2 projects were originally rejected by Departmental officials and the Minister but were subsequently approved for payment. In each instance, subsequent to the rejection, the only documentation on file was a letter from another Minister supporting the funding request.

Findings and Recommendation

Non-Compliance with Legislation

1. Financial Administration Act

The *Financial Administration Act* prohibits the payment of public money from the Consolidated Revenue Fund for purposes other than those authorized by the Legislature. The budget for the Special Assistance Fund under the Municipal Financial Assistance Program is authorized by the Legislature through the annual Estimates process. This Fund is intended to provide grants to municipalities to assist them in dealing with emergencies of a health and/or life safety nature, general emergencies, and other initiatives as well as to assist municipalities which are experiencing financial difficulties.

Our review of payments from the Special Assistance Fund indicated that the Department of Municipal and Provincial Affairs is providing funding to groups other than municipalities. Therefore, as the funds provided for in this account were not used for the purposes authorized by the Legislature, the Department contravened the *Financial Administration Act.* Figure 2 provides information on examples of payments which were made in contravention of the *Financial Administration Act.*

2.23 Special Assistance Fund

Figure 2

Special Assistance Fund
Examples of Payments made
in Contravention of the *Financial Administration Act*
Years Ended 31 March
($000's)

Project Sponsor	Reason	2002	2001
Brookside Resort Limited	Golf course development	300	-
Valley Golf Course	Golf course development	191	-
Humber Valley Golf Course	Golf course development	100	-
Gander Golf Course	Golf course development	100	-
C.A. Pippy Park	Clubhouse renovations and operational grants	200	465
Royal St. John's Regatta Committee	Renovations to the boathouse	200	200
Comer Brook Triathlon Committee	Defray costs of 2001 ITU World Cup	150	-
Grand Concourse Authority	Construction of the Mundy Pond Visitor Service Building	100	-
YMCA Children's Learning Centre	Visual Computer Program	100	-
Blomidon Golf and Country Club	Finance general operations and renovations to a swimming pool	50	50
Johnson Family Foundation	Commissioning two sculptures for the Signal Hill Area	62.5	-
Newfoundland Symphony Orchestra	Retirement of debt (50) and subsidize travel (10)	60	-
Newfoundland Symphony Youth Choir	Travel costs	25	-
Non-profit groups	Production costs of theatrical releases	25	20
Blow Me Down Cross Country ski club	Operational costs	25	25
Royal Canadian Legion	Repairs to roof	-	40

Source: Department of Municipal and Provincial Affairs

2.23 Special Assistance Fund

Figure 3 provides a summary of the allocation of special assistance funding between municipalities and non-municipality groups over the last four years.

Figure 3

Special Assistance Fund
Allocation of Funding
Years Ended 31 March
($ Millions)

	2002	%	2001	%	2000	%	1999	%
Municipalities	2.4	44	3.1	69	2.5	69	3.6	79
Non-Municipalities	2.9	56	1.3	31	1.1	31	0.9	21
Total	**5.3**	**100**	**4.4**	**100**	**3.6**	**100**	**4.5**	**100**

Source: Government's Financial Management System

As Figure 3 indicates, the percentage of funding allocated to non-municipalities of total approved funding has increased from 21% in 1999 to 56% in 2002. Although the Special Assistance Fund is budgeted under the Municipal Financial Assistance Program, in 2002, less than one half of the funding was paid to municipalities. Also, the Figure shows that payments to non-municipalities have increased from $900,000 in 1999 to $2.9 million in 2002, an increase of 222%.

2. Review and Approval of Special Assistance Grants

The Department of Municipal and Provincial Affairs has established guidelines for the Special Assistance Program which include the following requirements:

- a written request for funding from the municipality;
- a written analysis and recommendation from the appropriate regional office and, where applicable, the Fire Commissioner's Office;
- an assessment and recommendation by the Department's Finance Committee consisting of the Assistant Deputy Minister and other senior departmental officials;

2.23 Special Assistance Fund

- a letter from the Minister of the Department to the municipalities advising whether their request for financial assistance was approved or rejected; and
- the submission of documentation by municipalities to support expenditures for grants approved in excess of $50,000.

Up to 31 March 2001, funding requests were reviewed by the Finance Committee. After that date, funding requests were no longer reviewed by that Committee. Instead, funding requests were reviewed by the Department's Executive Committee comprised of the Deputy Minister and the Assistant Deputy Ministers.

For the years ended 31 March 2001 and 31 March 2002, a total of $9.7 million was provided under the Special Assistance Fund. Our review of 109 projects (56 in 2001 and 53 in 2002) which received funding totalling $3.1 million indicated that the Department is not complying with Program guidelines as follows:

- Of the 56 projects reviewed for the year ended 31 March 2001, 28 projects which received total funding of $635,445 were not approved by the Finance Committee until after the project sponsor had been notified by the Minister that the funding had been approved. As well, for 21 of these 28 projects, the grant had been paid to the project sponsor prior to approval by the Finance Committee.

- As of April 2001, the funding requests were no longer reviewed by the Finance Committee but by the Executive Committee of the Department comprised of the Deputy Minister and the Assistant Deputy Ministers. Unlike the Finance Committee which did document its decisions, recommendations of the Executive Committee were not documented; therefore, we could not determine whether funding decisions for any of the 53 projects reviewed for the year ended 31 March 2002 were assessed and approved by this Committee.

- For 35 projects (all in 2002) totalling $1.6 million, there was no letter signed by the Minister to the group requesting funding advising that their request for financial assistance was approved nor was there any other indication of the Minister's approval. In addition, as indicated above, as recommendations of the Executive Committee were not documented, we could not determine whether funding decisions were assessed and approved by this Committee. These 35 projects were approved as follows:

  - 13 projects totalling $485,500 were approved by the Premier's Office. Of the 13 projects, 8 projects totalling $435,000 were for groups other than municipalities.

  - 10 projects totalling $1,053,993 were approved by the Minister of Finance. All 10 projects were for groups other than municipalities.

  - 12 projects totalling $21,844 were approved by the Deputy Minister of the Department of Municipal and Provincial Affairs or the regional director of the Department. Of these 12 projects, 11 were for municipalities.

- Of the 109 projects reviewed, 73 related to approved funding for municipalities that would require a written analysis and recommendation from the appropriate regional office or, where applicable, the Fire Commissioner's Office. Of these 73 files, 35 with total approved funding of $353,461 did not contain any analysis or recommendation from the appropriate regional office or, where applicable, the Fire Commissioner's Office. Of these 35 projects, 18 were approved for funding in 2001 and therefore were assessed and approved by the Finance Committee. The remaining 17 projects were approved for funding in 2002, and as recommendations of the Executive Committee were not documented, we could not determine whether funding decisions were assessed and approved by this Committee.

- For grants approved in excess of $50,000, Program Guidelines require project sponsors to submit documentation to support how the funding was spent. Of the 109 projects reviewed, there were 6 projects for municipalities and 20 projects for non-municipality groups which received funding in excess of $50,000 each. Our review of these projects indicated the following:

  - The Department requested supporting documentation from all 6 municipalities and all 6 municipalities provided this documentation.

  - The Department requested supporting documentation from 12 of the 20 projects for non-municipality groups. All of these 12 project sponsors provided the requested documentation. For the remaining 8 projects, the Department did not request and did not receive any documentation to support how the funding was spent. These 8 projects received total funding of $777,500.

2.23 Special Assistance Fund

The Department can also require project sponsors which received less than $50,000 in funding to provide documentation to support how the funding was spent. Of the 109 projects reviewed, 67 projects for municipalities and 16 projects for non-municipality groups received funding of less than $50,000 each. Our review of these projects indicated the following:

- The Department requested supporting documentation from 40 of the 67 projects for municipalities. Of these 40 projects, project sponsors have not submitted the requested documentation for 4 of these projects which received total funding of $28,232. Departmental officials indicate that for 3 of these 4 projects, requested documentation has not been submitted as the projects are not yet complete. The 27 projects for which the Department did not request supporting documentation received total funding of $254,181.

- The Department did not request supporting documentation for any of the 16 projects for non-municipalities. These 16 projects received total funding of $212,000.

We also reviewed 11 proposed projects for municipalities which were rejected for funding to determine the reasons for the rejection. Our review of these 11 projects indicated that the projects did not meet the criteria for special assistance funding and also indicated the following:

- For 3 of the 11 projects, other projects had been approved for funding for the same purpose. As a result, the Department was not consistent in the approval of applications for funding.

- For 2 of the 11 projects which received total funding of $4,000 during 2002, the projects were originally rejected by Departmental officials and the Minister but were subsequently approved for payment. In each instance, subsequent to the rejection, the only documentation on file was a letter from another Minister supporting the funding request.

- For 2 of the 11 projects, the municipalities provided additional information subsequent to the initial rejection and based on this information were subsequently approved for funding.

Recommendation

The Department should comply with the Financial Administration Act *and with the Program Guidelines established for the Special Assistance Fund.*

Department's Response

The Department accepts that payments were made to non-municipal groups during the two fiscal years reviewed, in contravention of the Financial Administration Act. *In fact, this has been the case for a number of years, as evidenced by Figure 3. However, it was clearly identified in the Detailed Notes to the Estimates for each of those years, that a portion of the allocated funding was available to be spent on non-municipal groups. In any case the oversight has now been corrected by rewording the budget description to be consistent with detailed notes.*

In addition, the payments were for the most part made to community and/or service organizations for projects within their communities.

Given the volume of applications, and the emergency nature of many expenditures, it was virtually impossible for the Finance Committee to approve all requests prior to actual payment. As a result, payments were made prior to ratification by the Committee. As noted in your report, the Department has since modified the approval process to expedite payment. All payments are now approved by the Deputy Minister, Minister or similar level of authority.

With regard to the specific items identified as not being in accordance with program guidelines, it must be pointed out that these are only guidelines and as such, are not meant to be applied specifically in all cases. All requests are considered on their individual merits, and approvals or rejections are determined based on many factors, including but not limited to:

(1) need, as analysed by appropriate departmental staff;
(2) financial situation of the organization;
(3) levels of funding provided in recent years to that same organization;
(4) type of service to be provided utilizing the funding.

In the Department's opinion, the type of projects funded and the amounts provided were in accordance with the intent of the funding allocation. In addition, adquate approvals and supporting documentation are provided for most, if not all, of the items.

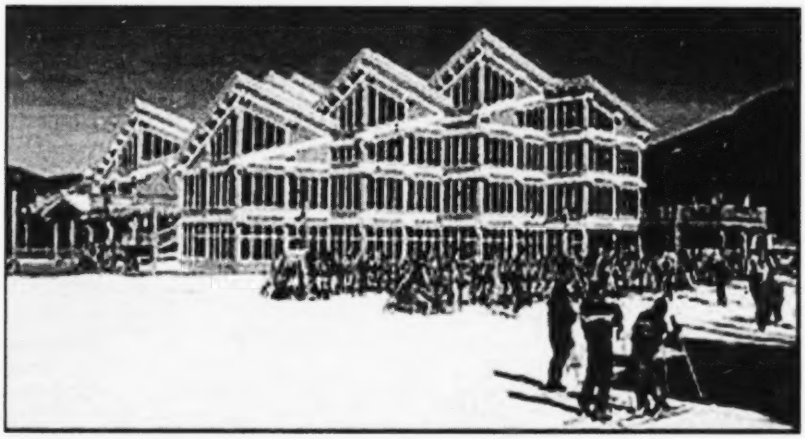
Based on the Auditor General's comments, we will review the existing guidelines and approval processes to determine whether further enhancements are possible.

2.23 Special Assistance Fund

2.24 Marble Mountain Development Corporation

Introduction

The Marble Mountain Development Corporation (the Corporation) was incorporated in April 1988 and is a 100% provincially owned Crown corporation. The principal activity of the Corporation at that time was to develop the infrastructure of the Marble Mountain resort. In May 1993, the ski and retail operations of the resort area were assumed by the Corporation from a local ski club.



Marble Mountain Day Lodge

Scope and Objectives

Since 1995, we have performed several reviews of the Corporation. In October 2002, we completed a further review of the Corporation and its operations. The objectives of our review were to assess the financial position and operations of the Corporation, and to determine whether the Corporation has complied with the *Public Tender Act* and Regulations.

Conclusions

Since it began operations in 1988, Marble Mountain has received financial assistance totalling $37.1 million from the Provincial and Federal governments. In addition, a Provincial Crown agency performed infrastructure work at the condominium site at an estimated cost of $1.7 million. Government also provided a $300,000 loan to the Corporation to purchase equipment and has guaranteed the Corporation's line of credit which has increased from $300,000 in 1999 to $1.7 million in 2002.

Although the Province continues to provide significant operating funding to the Corporation, the Corporation continues to incur operating deficits.

2.24 Marble Mountain Development Corporation

The Corporation is not complying with the *Public Tender Act* as not all goods and services over $10,000 are being publicly tendered and the Corporation is not always informing the House of Assembly of exceptions.

Findings and Recommendations

Government Assistance

Since it began operations in 1988, Marble Mountain has received financial assistance totalling $37.1 million from the Provincial and Federal governments. Details of this financial assistance is outlined in Figure 1.

Figure 1

Marble Mountain
Provincial and Federal Financial Assistance
Years Ended 30 April
($ 000's)

	Provincial			Federal			Total Grants
Year	Operating	Capital	Total	Operating	Capital	Total	
2002	$ 415	$ -	$ 415	$ -	$ -	$ -	$ 415
2001	187	-	187	-	158	158	345
2000	172	3,118	3,290	-	558	558	3,848
1999	427	248	675	-	246	246	921
1998	113	294	407	-	183	183	590
1997	244	17	261	-	-	-	261
1996	964	6,750	7,714	59	82	141	7,855
1995	281	2,446	2,727	191	5,751	5,942	8,669
1994	229	1,120	1,349	-	554	554	1,903
1993	180	873	1,053	86	320	406	1,459
1992	55	1,654	1,709	312	1,615	1,927	3,636
1991	70	2,400	2,470	-	138	138	2,608
1990	55	1,119	1,174	18	-	18	1,192
1989	55	225	280	8	3,140	3,148	3,428
Total	**$ 3,447**	**$ 20,264**	**$ 23,711**	**$ 674**	**$ 12,745**	**$ 13,419**	**$ 37,130**

Source: Audited Financial Statements

2.24 Marble Mountain Development Corporation

As this Figure shows, Marble Mountain has been provided with a total of $33 million in capital funding from the Provincial and Federal governments. In addition to the funding outlined in Figure 1, a Provincial Crown agency performed infrastructure work at the condominium site at an estimated cost of $1.7 million. Also, during 1999-00, the Department of Industry, Trade and Rural Development provided the Corporation with a $300,000 loan for the purchase of snow-making equipment. This loan is repayable over 15 years based upon 20% of available cash flows. To date, nothing has been repaid to the Department.

Government has also guaranteed the Corporation's line of credit which has increased from $300,000 in 1999 to $1.7 million in 2002.

Financial Operations

Figure 2 provides information on the Corporation's financial operating results from 1997 to 2002. As this Figure indicates, annual operating losses before Government funding have increased from $285,000 in 1997 to $776,000 in 2002, an increase of 172%.

Figure 2

Marble Mountain
Operating Results
Years Ended 30 April

	2002	2001	2000	1999	1998	1997
Own Source Revenue						
Operations	$ 1,070,651	$ 1,288,761	$ 1,125,221	$ 1,297,818	$ 1,142,197	$ 1,429,521
Condominium	214,609	102,942	-	40,860	-	-
Other	70,234	55,528	32,522	25,533	77,590	16,144
Total	1,355,494	1,447,231	1,157,743	1,364,211	1,219,787	1,445,665
Expenditure						
Salaries	578,372	570,281	672,132	659,790	543,907	592,349
Other/Operations	1,394,593	1,406,058	1,092,444	1,269,616	789,639	1,137,955
Condominium	158,155	174,753	32,236	53,086	-	-
Total	2,131,120	2,151,092	1,796,812	1,982,492	1,333,546	1,730,304
Loss	(775,626)	(703,861)	(639,069)	(618,281)	(113,759)	(284,639)
Provincial Grants	415,000	186,500	171,500	426,685	113,070	244,429
Net Loss	$ (360,626)	$ (517,361)	$ (467,569)	$ (191,596)	$ (689)	$ (40,210)
Skier Visits	62,508	62,574	52,600	49,749	54,534	59,732

Source: Audited Financial Statements and skier visit reports

2.24 Marble Mountain Development Corporation

The Figure indicates that Government continues to provide significant operating funding to the Corporation. However, even with this Government funding, the Corporation continues to incur operating deficits. Our analysis of selected financial information indicated the following:

1. Lift Operations and Skier Visits

In its 1994 Master Plan update, the Corporation provided projections on the number of skier visits and the contribution per skier visit. The Plan covered the period to 1999. In 2001, the Corporation updated its Master Plan to 2005. However, the draft updated Plan did not include projections for skier visits and the contribution per skier visit.

Figure 3 provides information on projected and actual skier visits and contribution per skier visit from 1995 to 2002.

Figure 3

Marble Mountain
Skier Visits and Contributions
Years Ended 30 April

	Skier Visits			Contribution per Visit			Lift Operations Profit (Loss)
Year	Projected	Actual	Difference	Projected	Actual	Difference	
1995	76,676	79,475	2,799	$ 10.86	$ 10.96	$ 0.10	$ 101,699
1996	88,178	44,000	(44,178)	$ 13.04	$ 12.79	$ (0.25)	$ (181,028)
1997	104,050	59,732	(44,318)	$ 13.56	$ 11.22	$ (2.34)	$ 50,229
1998	114,455	54,534	(59,921)	$ 14.91	$ 9.42	$ (5.49)	$ 7,535
1999	125,900	49,749	(76,151)	$ 16.40	$ 8.94	$ (7.46)	$ (282,175)
2000	N/A	52,600	N/A	N/A	$ 7.77	N/A	$ (274,000)
2001	N/A	62,574	N/A	N/A	$ 7.61	N/A	$ (375,120)
2002	N/A	62,508	N/A	N/A	$ 8.29	N/A	$ (421,000)

Source: Master Plan and Financial Records
N/A - Corporation did not project this information

As the Figure shows, since 1996 the Corporation has not realized the number of skier visits and contribution per skier visit as it had projected. Furthermore, the profit and loss for each year indicates that the contributions from lift operations and skier visits have deteriorated significantly from a profit of $101,699 in 1995 to a loss of $421,000 in 2002.

Skier visits have declined from 79,475 in 1995 to 62,508 in 2002, a decrease of 21%. During the same period, revenues related to ski lifts and season passes have decreased from $871,000 in 1995 to $518,000 in 2002, a decrease of 41%. The contribution per ski visit in 1995 was $10.96 while in 2002, the contribution per ski visit was $8.29, a decrease of 24%.

2. Cafeteria and Bar Operations

The net contribution from cafeteria and bar operations was $118,576 in 1997 and by 2002 the net contribution had decreased to $63,639. During the same period, skier visits increased from 59,732 to 62,508.

In 2002, cafeteria and bar operations were contracted whereby the Corporation received 15% of gross food sales and 20% of beverage sales from a private operator. Officials could not provide us with any financial analysis to support the decision to contract these services. Officials indicated that they plan to have the Corporation operate the cafeteria and bar services next year.

3. Condominiums

In our 2000 annual report we reported on the development and operations of the Marble Mountain condominium, Marble Villa. This review concluded that the Province had contributed $3.1 million to the development of the condominiums which were to be marketed for sale. No units were sold and eventually the units were rented beginning in July 2000. Financial operations during the initial year were poor as occupancy rates were low and start-up costs were experienced.

Our review of the status of these issues and our review of current operations indicated the following:

- Marble Villa continues to be available for daily rentals with 27 of the 31 rooms furnished or partially furnished. There are no current plans for the sale of these units.

2.24 Marble Mountain Development Corporation

- Occupancy rates, although improved, are still low. Our review found that the overall occupancy rate for the 2001-02 fiscal year was 22%. Peak months were February and March 2002 with occupancy rates at 67% and 73% respectively. However, 5 months during the year had rates below 7%, with May 2001 at 1%.

- Since the condominiums were built in 2000, the Corporation has reported a loss of $32,000 in 2000, a loss of $72,000 in 2001 and, in 2002, a profit of $56,000. However, of the $56,000 profit reported by the Corporation in 2002, $26,000 relates to revenues reported for complimentary rentals for marketing campaigns and to accommodate promoters and guests of special functions (i.e. no payment was received). The complimentary rooms were recorded in revenue at the estimated cost to maintain the room and an equal amount was then charged to expenditure accounts other than condominiums.

Capital Assets

As at 30 April 2002, the Corporation reported capital assets with a cost of $33.8 million. Although the Corporation has prepared a listing of capital assets purchased since 1988, it has not reconciled items contained in this listing to assets on hand. As a result, the Corporation does not know whether all assets purchased are accounted for.

Our review of capital assets identified two instances where capital assets were purchased and never used by the Corporation.

- During 1999-00, the then Department of Development and Rural Renewal provided the Corporation with a $300,000 interest free loan for the purchase of snow-making equipment. In August 1999, the Corporation purchased three air compressors, piping and hydrants at a cost of $250,000 and spent the remaining $50,000 in February 2000 on transportation, maintenance and installation expenses. Before this equipment was ever used, it was determined that it was no longer required. The Board has indicated that it intends to ask the Department to remove its lien on the equipment so that the equipment can be sold.

2.24 Marble Mountain Development Corporation

- In January 1998, the Corporation purchased 50 snow tubes at a cost of $6,275, net of HST. These snow tubes were never used by the Corporation and during the summer of 2000 they were sold to a local company for $3,150. As compensation, the local company provided excavation work to the Corporation's snow board park up to the value of the sale price. The Corporation could not provide us with adequate documentation to support the number of hours provided by the company.

Public Tender Act

The Corporation is required to comply with the *Public Tender Act*. Our review of Corporation purchases and service contracts indicated the following:

1. Purchases

We selected a sample of 13 invoices to determine whether the Corporation complied with the *Public Tender Act*.

We examined eight purchases valued at $10,000 or greater which would require the Corporation to call for a public tender. Our review of these eight purchases indicated that the Corporation contravened the *Public Tender Act* in 7 of these 8 instances, as follows:

- In one instance, snow boards, boots and bindings costing $10,891, purchased on 25 January 2002, was deemed by the Corporation to be a pressing emergency and was not publicly tendered. This exception was reported to the House of Assembly. However, in our opinion, this requirement should have been foreseen and publicly tendered in accordance with the *Public Tender Act*.

- In one instance, snow making equipment costing approximately $27,000 leased in November 2001 was not publicly tendered as it was deemed by the Corporation to be a pressing emergency and was also considered to be compatible with the existing equipment. This exception was reported to the House of Assembly. In our opinion, this requirement should have been foreseen and publicly tendered in accordance with the *Public Tender Act*.

- In one instance, the Corporation purchased electrical supplies costing $12,430 without a public tender. These supplies were purchased under two separate purchase orders, each for less than the $10,000 threshold in the *Public Tender Act* which requires a public tender. These purchases from the same supplier on the same day should have been considered one purchase and therefore publicly tendered. Purchases should not be split as a means to avoid the requirement for public tenders.

- In one instance, contaminated soil removed at a cost of $10,788 was deemed by the Corporation to be a pressing emergency and was not publicly tendered. This exception was not reported to the House of Assembly as required by the *Public Tender Act*.

- In one instance the Corporation purchased ski jackets and pants costing $14,400 without requesting public tenders.

- In one instance the Corporation purchased skis and boots costing $49,216 without requesting public tenders.

- In one instance the Corporation entered into a contract for the provision of propane and diesel fuel for the 2002 fiscal year costing $50,950 without requesting public tenders.

We examined five purchases less than $10,000 which requires that three quotes be obtained. Our review of these five purchases indicated the following:

- for three purchases, the Corporation contravened the *Public Tender Act* as it did not obtain the required three quotes;

- for one purchase, the Corporation deemed the vendor to be a sole source supplier and therefore three quotes were not obtained; and

- for one purchase, the Corporation concluded that the vendor had proprietary rights on equipment maintenance and, therefore, three quotes were not obtained.

2. Service Contracts

Since 2000, the Corporation contracted a number of services including hill maintenance, snow-making, lift operations, food and beverage services, housekeeping, security, and building maintenance. Details of these contracts are outlined in Figure 4.

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Figure 4

Marble Mountain Service Contracts

Service Contracted	Service Period	Contract Costs
Food and Beverage	May 2000 - September 2000 June 2001 - September 2002	Revenues retained by contractor. Cost of sales and labour provided by the contractor. 10% -15% return on food sales 10% - 20% return on beverage sales. 15% return on vending machines
Ski Hill Maintenance	September 2000 - August 2005	Minimum 16 weeks service annually $2,250 weekly management fee 100% payment of reasonable labour 20% labour mark-up (max.$40,000) 20% bonus on base-year cost savings 10% bonus on budget savings
Lift Operations	September 2000 - August 2005	Same contract as ski hill maintenance
Snow-Making	September 2000 - August 2005	Same contract as ski hill maintenance
Condominium Housekeeping, Security and Maintenance	July 2000 - June 2001	Minimum charges include: $340 weekly maintenance charge $670 weekly security charge $500 weekly housekeeping charge
Condominium Housekeeping and Security	July 2001- October 2001 November 2001- April 2002 (Security only)	Security paid $10 per hour up to 20 hours weekly. Housekeeping reimbursed based on labour rates per Corporation collective agreement

Our review of these service contracts are outlined below.

(a) Food and Beverage Contract

In May 2000, the Corporation requested Expressions of Interest for food and beverage services. A contract was awarded to cover the period May 2000 to September 2000.

Subsequent to September 2000, the Corporation operated these services until May 2001. From June 2001 to April 2002, the services were contracted to the same operator that held the contract from May 2000 to September 2000.

Expressions of Interest were again requested for the Corporation's food and beverage services and a contract for the period May 2002 to September 2002 was awarded to the operator who previously operated the service.

Our review of the process used by the Corporation for selecting the operator for these services indicated the following:

- The Corporation did not conduct public calls for Expressions of Interest for services provided during the period from June 2001 to April 2002. As a result, the Corporation cannot demonstrate whether it maximized its revenues relating to these services.

- For the contracts relating to the periods from May 2000 to September 2000 and from May 2002 to September 2002, the only requirements provided by the Corporation to evaluate the Expressions of Interest received were *"Previous experience in conducting or carrying out activities or events of similar nature"* and *"Possible fees or compensation arrangements to be provided to Marble Mountain"*. There were no specific criteria developed by the Corporation to assess these requirements in evaluating the Expressions of Interest for these requirements. The Corporation could not demonstrate the basis used in selecting the successful operator for these contracts.

- For the two periods from May 2000 to September 2000 and from June 2001 to April 2002, there was discussion of these contracts in the Board minutes; however, there were no signed contracts on file at the Corporation.

(b) Hill Maintenance, Lift Operations and Snow-making Contract

In May 2000, the Corporation requested Expressions of Interest for hill maintenance, lift operations and snow-making services. The only requirements provided by the Corporation to be used in evaluating the Expressions of Interest received were *"Previous experience in conducting or carrying out activities or events of similar nature"* and *"Possible fees or compensation arrangements to be provided to Marble Mountain"*. There were no specific criteria developed by the Corporation to assess these requirements in evaluating the Expressions of Interest for these requirements. The Corporation could not demonstrate the basis used in selecting the successful operator.

2.24 Marble Mountain Development Corporation

During 2001-02, the Corporation paid this operator $405,000 in management fees and labour costs relating to hill maintenance, lift operations and snow-making. Our review of the contract and related expenditures indicated the following:

- The contract stipulated that a year was to be a minimum of 16 weeks plus additional time necessary to prepare the ski hill for the ski season and to mothball the ski hill after the ski season for summer operations; however, there were no restrictions in the contract on the additional time which may be required. As the management fee for these services was charged at $2,250 per week, the provision of a maximum time for these services would ensure that the work was performed as quickly as possible at minimum cost to the Corporation. During 2001-02, the Corporation paid the operator $85,050 in management fees covering a 38 week period.

- The contract provided that the Corporation would reimburse the operator for all reasonable payroll costs plus an administrative charge based on 20% of gross wages up to a maximum of $40,000. During 2001-02, $21,558 in overtime was paid to staff and as a result an additional $4,312 was paid to the operator for administrative charges. The Board expressed its concern over the amount of overtime paid and suggested that a formal policy be developed with regard to overtime.

- The contract provides for a 20% bonus to be paid to the operator if cost savings occur from average operating costs for the three years immediately preceding the contract. The contract also provides for a bonus of 10% of any savings from budgeted costs.

  There were no budgeted costs for these services agreed to between the Corporation and the contractor. Furthermore, the contract does not address the issue of a reduction in costs resulting from decreases in ski activity. As a result, the contractor could be paid a bonus based on cost savings even though the savings did not result from the services provided by the contractor. The Corporation has not determined the amount of any bonuses to be paid under the contract.

- During 2001, the Board indicated that it had concerns over not receiving information on the services being provided under this contract. As a result, a Director of Operations was hired in November 2001. The main duty of this position was to oversee the implementation of the contract.

(c) Condominium Housekeeping, Security and Maintenance Contract

During 2000, the Corporation publicly tendered and awarded housekeeping, security and maintenance services for the condominiums for the period July 2000 to June 2001. During the 2001-02 year, the contract was in place for nine weeks, after which time the contract expired.

In June 2001, the Corporation assumed the provision of maintenance services and negotiated condominium security and housekeeping services with the company providing food and beverage services. During 2001-02, the Corporation paid $23,300 to the company for these services and an additional $6,200 for other security services. The Corporation contravened the *Public Tender Act* as it did not publicly tender these services. In addition, the contract relating to these services was not approved by the Board, nor was there a signed contract in place.

Recommendations

The Corporation should:

- *closely monitor its financial position and take action to address its annual deficits; and*
- *comply with the* Public Tender Act *and its Regulations.*

Corporation's Response

Financial Operations

Although the corporation has incurred operating deficits, the current Board of Directors and management are committed to refining the operation to bring the finances to a breakeven point as quickly as possible. The 2001-02 season showed a $156,735 improvement over 2000-01 with budgets for 2002-03 projecting an operating loss of $69,000, a $291,626 improvement from the previous year.

As well, the Board of Directors have recently completed an Integrated Business Plan that will provide guidance over the coming 1-3 years to bring Marble Mountain to a financially viable status.

1. Lift Operations and Skier Visits

Skier visit projections were not included in the specifications provided to the contractor when the updated master plan specifications were submitted and therefore the contractor did not provide projections as a section of the updated master plan.

The figures provided for Lift Operations Profit (Loss) in your report should also reflect the state of the skiing industry from 1995 through 2002. The ski industry, on whole, experienced record losses through the late 1990's. Marble Mountain was no exception. The cost to operate Marble Mountain remains relatively similar year-to-year, however environmental (weather), demographic and economical factors outside the control of the Corporation have a significant impact on operational profits or losses from year-to-year. 2002 marked the first year since 1996 where a targeted marketing ski campaign was launched around Marble Mountain. The Corporation fully expects it's actual revenue per skier visit to increase in a similar fashion to its decline from 1996 to 2001 through steady growth over a 3-5 year period as our marketing efforts are realized.

2. Cafeteria and Bar Operations

Based on information provided by management in January 2002, the actual net proceeds from the cafeteria and bar operations, after all additional expenses pertaining to these operations were applied, was $47,634 for the 2000-01 season. Projections on the net proceeds by contracting these services for the 2001-02 season were $66,000 based on the percentages negotiated in the food and beverage contract. Based on this information it was the Board's direction to proceed with contracting the food and beverage operation for the 2001-02 season.

3. Condominiums

The Marble Villa has been operated primarily for ski in/out accommodations during the ski season. Occupancy rates during the ski season have proven to be very positive and increasing year after year.

Complementary rooms are provided for various purposes and expensed to various departments within the corporation. This practice is used for internal management reporting purposes so we can more accurately monitor the split between Villa cash income and marketing costs. This does not effect the Corporation's overall financial statements. It is the

Corporations intention to continue with this internal accounting practice. 2001-02 showed a $102,000 cash turnaround from 2000-01 and a $30,000 operating profit for the Villa, the Board expects occupancy rates and profits to continue to increase.

Capital Assets

As staff resources permit, it is the Corporation's intention to have all capital assets catalogued and cross referenced on an annual basis as part of the annual financial review procedure.

1. Compressors

The current snowmaking system was used in conjunction with a compressed air system in the past. Based on the recommendations of the Outside Operations Contractor, the most cost efficient snowmaking system to use does not require the use of air compressors. This system is more efficient than the system that requires compressed air therefore the compressors have not been utilized since their purchase and installation.

2. Snow Tubes

It is the Corporation's understanding that invoices from the company and the corporation have since been submitted to your office showing a clear transaction of work completed by the company and the sale of snow tubes by the corporation to the same company in the amounts of $3,150.

Public Tender Act

The Corporation's purchasing policy is being reviewed by the Board to ensure all purchases are made in adherence with the Public Tender Act.

1. Purchases

Snowboards, boots and bindings

The requirement for this equipment could not have been foreseen as the need for this equipment arose from the booking of two (2) school groups from the United Kingdom in January. Upon confirmation of the booking and details of equipment requirements to fulfill the booking, it was deemed to be a pressing emergency to purchase this equipment immediately such that time did not allow for publicly tendering of this purchase. It is the Board's intention to confirm such group bookings and equipment requirements earlier in the year to allow for public tenders to be called when required.

2.24 Marble Mountain Development Corporation

Snowmaking equipment lease

The Board was apprised of the need for additional snowmaking equipment at the 28-November-2001 Board meeting by the outside operations contractor. The Board agreed with the request that one additional snowmaking machine was required. Given the pressing timelines for making snow for the projected opening date of 7-December-2001, the Board directed management to immediately source a piece of equipment that met the specifications for integration with the existing snowmaking system and allowed for the best purchase value. It is the Board's intention to determine all equipment requirements well in advance to allow for public tenders to be called when required.

Electrical supplies

It is the Board's understanding these items were purchased for separate projects. It was not the intention of the Board to avoid the requirement for public tenders. The Corporation's purchasing policy is being reviewed by the Board to ensure all purchases are made in adherence with the Public Tender Act *and to prevent instances such as this from occurring in the future.*

Contaminated soil

Due to the nature of the situation, it was deemed urgent to have the contaminated soil removed as quickly as possible. Therefore time did not allow for the public tendering of this service. The Corporation has subsequently filed a form "B".

Ski uniforms

The timing of the purchase of this equipment was such that time did not allow for tenders to be called in order to have the uniforms in time for the season. As well, the Corporation had purchased items with the supplier in the past and was confident it was receiving the best price for the quality of equipment being purchased. It is the Board's intention to determine all equipment requirements well in advance to allow for public tenders to be called when required.

Skis and boots

The purchase of the skis and boots was completed prior to the existing Board of Directors tenure. Subsequent equipment that arrived during the current Board's tenure was returned to the supplier at no cost to the Corporation. It is the current Board's intention to ensure all equipment is identified in advance such that public tenders can be called when required.

2.24 Marble Mountain Development Corporation

Propane and diesel fuel

The tanks for the propane & diesel fuel are the property of the current supplier. The current supplier has been used in the past, however periodic price checks with alternate suppliers are being made by the Corporation to ensure the best possible price and service is being provided.

2. Service Contracts

Food and Beverage contract

The initial contracting of these services from May to September 2000 was performed prior to the current Board's tenure.

In the spring of 2001, a job posting was performed in search of a Chef. As no adequate applications were received, and with pressing timelines for various functions that had been booked at the facility looming, the Board negotiated a service contract for the summer and fall of 2001. This contract was then extended through April 2002 after a thorough evaluation of the services required and the financial implications to the Corporation by management. It was felt that the percentages on gross revenues negotiated with the contractor were beyond what the Corporation was able to realize itself with little to no risk being taken by the Corporation. Based on the recommendations of management the Board approved the extension of the contract through April 2002.

Contracts were negotiated, signed by the Corporation and provided to the contractor for the operation from January to April 2002. Although the contractor never signed the contract, all terms and obligations were followed and met by both parties. It is the Board's understanding that a copy of the un-signed contract has been forwarded to your office.

Hill Maintenance, Lift Operations and Snowmaking contra

The contracting of these services was performed prior to the current Board's tenure. The current Board of Directors is committed to ensuring the contractor abides by all terms and obligations within the contract.

During 2001-02, the contractor was directed to complete an extensive preventative maintenance plan along with specific work required to make efficiencies in the snowmaking operation due to the lack of proper maintenance practices in previous years. These activities were deemed to fall within the definition of preparing the ski hill for operation and as such required the Corporation pay the management fee as prescribed in the contract.

Wages are being monitored on a weekly basis by the Corporation's management and the contractor to ensure minimal overtime expenses are incurred.

An operations budget was provided to the contractor at the onset of the 2001-02 season, however the contractor felt the budget included items that did not pertain to the contract. The Contractor continued to operate throughout the season without any further request for a specific outside operations budget. A formalized specific "Outside Operations" budget has been provided to the contractor for the upcoming season with a request for the contractor to identify any concerns with the figures contained within the budget. The costs of the 2000-01 and 2001-02 seasons are being compared to the "base year", as it is prescribed in the contract, to determine if any bonuses are due to the contractor. It is felt that no such bonus payments are due to the contractor.

Condominium Housekeeping, Security and Maintenance contract

The initial contracting of these services was performed prior to the current Board's tenure.

The services provided by the contractor, Explore Newfoundland, were withdrawn in late June 2001 just before an important convention at the resort, which had also booked the Villa. Management decided that, as CWR HOLDINGS INC. was the only organization on-site with employees, they were best situated to perform the work required. Management approved the continuation of these services through the remainder of the summer as there were few bookings for the Villa.

2.24 Marble Mountain Development Corporation

2.25 The Straits of Belle Isle Marine Services

Introduction

In April of 1997, the Federal and Provincial governments announced an agreement that transferred responsibility for Coastal Labrador Marine Service to the Province. As part of this agreement, the Province assumed responsibility for the passenger ferry service between St. Barbe, Newfoundland and Labrador and Blanc Sablon, Quebec. At the time this service was contracted to a private contractor. This service is seasonal and runs from 1 May, or as soon as ice conditions permit, to 3 January, or as long as ice conditions permit. The Department has the option to request service to commence as early as 15 April but to cease no later than 20 January.

Details of the costs for this service is outlined in Figure 1.

Figure 1

Department of Works, Services and Transportation
Strait of Belle Isle Ferry Service
For the Years Ending 31 March
($ 000's)

Vessel	2000		2001		2002	
	Budget	Actual	Budget	Actual	Budget	Actual
Contract	$ 1,640	$ 1,942	$ 4,600	$ 4,767	$ 4,600	$ 4,695
Fuel	-	-	800	937	1,026	838
Other	-	10	-	24	-	55
	$ 1,640	$ 1,952	$ 5,400	$ 5,728	$ 5,626	$ 5,588

*The MV Apollo began service in 2000-01. In 1999-00 the service was provided by the MV Northern Princess operated by Northern Cruiser Limited

Scope and Objectives

We completed our review in June 2001 of the expenditures related to the passenger service between St. Barbe and Blanc Sablon, Quebec and the MV Apollo. Our review covered the period from 1 April 1997 to 31 March 2001. The objectives of our review were to determine whether:

- the awarding of the contract was made in accordance with Government policies and procedures, and the *Public Tender Act* and regulations; and

- the payments for the coastal Labrador service are properly approved, monitored and in accordance with applicable contracts and government procedures.

Conclusions

The Province did not comply with the *Public Tender Act* in awarding the $17.8 million contract for the Strait of Belle Isle ferry service. The tender specifications indicated that the vessel could exceed 85 meters in length if it was capable of docking at the ramp in Blanc Sablon in the normal position for loading and offloading without the need to angle the vessel or compensate in other ways to enable effective ramp transfer. However, the tender was awarded to a contractor who indicated the vessel would be angled when docked at the wharf in Blanc Sablon.

The Department is not adequately monitoring the service to ensure payments are made only for services provided. Our review identified overpayments totalling $18,000.

The Contractor was paid $30,773 for wharf repairs at St. Barbe. These expenditures were not tendered as required by the *Public Tender Act*.

Findings and Recommendations

Awarding of Contract

Effective 1 April 1997 the Province assumed responsibility for the ferry service between St. Barbe, Newfoundland and Labrador and Blanc Sablon, Quebec. At the time this service was being provided by a private operator under a contract with the Government of Canada. The Province assumed payments under this contract to the end of the contract period, 31 March 2000. Prior to the termination of the contract, the Province requested public tenders for the ferry service for an additional four years to 31 March 2004.

Tenders were requested on 13 November 1999 with a closing date of 20 December 1999. However on 10 December 1999, which was prior to the closing of the tender, changes were made to the original tender to increase the age limit of the vessel from 25 to 30 years, increase the maximum length of the vessel providing the vessel could dock safely and to change the ice classification. We were informed by officials at the Department that these amendments were made as a result of requests from bidders.

2.25 The Straits of Belle Isle Marine Services

The Province received 4 responses to the request for tenders; however, the Department ruled that 3 of the bids did not meet the minimum specifications and were rejected. On 20 January 2000 the contract was awarded to Labrador Marine Incorporated. Our review of this process identified the following:

- Although the Province assumed responsibility for the ferry service 1 April 1997 and was aware that the scheduled termination date for the contract in place was 31 March 2000, it did not request tenders until November 1999 for a ferry service which would normally start in May 2000. As a result, the Department established a tender closing date of 20 December 1999. These dates restricted the length of time provided to bidders for the preparation of their bids. In addition, this late tender date did not give the Department flexibility to change the closing date for the tenders or to re-tender if no qualified bids were received.

- The original tender specifications limited the size of the vessel to 85 meters due to the limitations of the existing docking facilities at Blanc Sablon. However, these specifications were changed on 10 December 1999, which was prior to the tender closing of 20 December 1999, to permit vessels that exceeded the maximum 85 meters if it could be demonstrated that a longer vessel was capable of docking at the ramp in Blanc Sablon in the normal position for loading and offloading without the need to angle the vessel or compensate in other ways to enable effective ramp transfer.

  The successful bidder used a vessel with a length of 108 meters and drawings show that this vessel not only required angling to reach the ramp at Blanc Sablon but modifications to the wharf would also be needed in the form of heavier fenders. As a result the tender was awarded to a bidder who did not comply with the specifications.

- The Province's tender requirements stated a minimum capacity for transportation of passengers and vehicles and a minimum engine power. No maximum limitations were placed on the vessel although the Province is responsible for paying the fuel costs for the vessel. The contract was awarded to a vessel that could accommodate 1200 passengers (compared to 240 passengers as per tender), 220 cars (compared to 75 cars as per tender) and had the engine power of 8927 horsepower (compared to 3000 horsepower as per tender). For the 2001-02 fiscal year fuel costs were $838,000 (2001 - $937,000) for the vessel.

2.25 The Straits of Belle Isle Marine Services

Figure 2 shows the Departmental specifications as per the tender request along with the amendments and the specifications of each vessel for which a bid was submitted.

Figure 2

Strait of Belle Isle Ferry Service
Tender Evaluations

Specifications	Original Specs	Amended Specs	BID 1	BID 2	BID 3	BID 4
Vessel			Northern Princess	Cozumel II	Cozumel II	Apollo
Ice Class	1	1A	1A	1A	1A	1A
Passengers	240	240	240	900	900	240 (Note 1)
Speed in knots	12	12	13	14	14	17
Bow/ vehicle deck	Enclosed	Enclosed	Yes	No	No	Yes
Car capacity	75	75	55	90	90	220
Tractor Trailer Capacity	6	6	2	6	6	6
Berthing without angling	Yes	Yes	Yes	Yes	Yes	(Note 2)
Adequate passenger Accommodations	Yes	Yes	Yes	Yes	Yes	Yes
Maximum vessel age	25	30	34	27	27	30
Maximum draft	4.6m	4.6m	3.4	4.2	4.2	4.6
Power (horsepower)	3,000	3,000	2,475	5,400	5,400	8,927
Bow Thruster	Yes	Yes	Yes	Yes	Yes	Yes
Engine	Twin	Twin	Single	Quad	Quad	Twin
Wheelchair accessible	Yes	Yes	Yes	Yes	Yes	Yes
Cafeteria/ Restaurant	Yes	Yes	Yes	Yes	Yes	Yes
Maximum length in meters	85	85 (Note 3)	70	71	71	108
Amount tendered over 4 years of contract			**$13.7 M**	**$24.4 M**	**$17.6 M**	**$17.8 M**

Note 1: Vessel is capable of carrying 1,200 passengers, however it is certified to carry only 240.
Note 2:The wharf at Blanc Sablon required modifications.
Note 3: Vessel can exceed this maximum if it is capable of docking at Blanc Sablon.

2.25 The Straits of Belle Isle Marine Services

Payments under the Agreement

Payments to the contractor are made based upon a daily rate that is paid if the vessel completes at least one round trip back and forth across the strait or, if the vessel is unable to operate due to weather conditions or other reason that, in the opinion of the Minister, is no fault of the vessel or its crew.

Our review of payments to the contractor identified that on 12 May 2000 the vessel failed to make any crossings of the straits because of mechanical problems; however, the contractor still billed and was paid the $17,989 daily rate. The Agreement specifically states that the Contractor shall not be paid the daily rate if the Contractor is unable to complete at least one round trip due to breakdown. As a result, the Contractor should not have been paid the daily rate of $17,989.

Non-Compliance with the Public Tender Act

The Contractor was paid $30,773 for repairs to the wharf at St. Barbe; however, this work was not tendered as required by the *Public Tender Act*.

Recommendations

The Department should:

- *comply with the* Public Tender Act*;*
- *ensure tenders are requested with sufficient time to assess all bids and re-tender where necessary; and*
- *ensure ferry services are adequately monitored for compliance with applicable contracts.*

Department's Response

In response to the Auditor General's observation that the tender was awarded to a contractor who did not comply with the terms and conditions of the tender specifications (re ability to safety dock the vessel) and therefore the Province did not comply with The Public Tender Act, the Department notes that the award to the contractor was made explicitly conditional-based on the representations that the vessel could safely dock - and was predicated on the contractor providing requisite proof that the vessel could comply with the terms and conditions of the tender specification. As was noted by the Supreme Court of Newfoundland and *recognized by this Department, the contractor established that the vessel was capable of docking without the need to angle the vessel nor to compensate in other ways to enable effective ramp transfer.*

The Department will endeavour to ensure tenders are called on a timely basis in accordance with its usual due diligence and increase its monitoring for compliance with contracts.

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CHAPTER

3

Update on Prior Years' Report Items

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3.1 Introduction

We conduct legislative audits to provide the House of Assembly with information on public sector accountability. Legislative audits are carried out to determine whether:

- public money is being properly collected and accounted for;
- expenditures are properly recorded and made for the purpose intended;
- accounts are properly kept;
- assets are adequately safeguarded; and
- accounting and management systems and practices are adequate.

These legislative audits also determine whether the activities of Government departments and agencies have been carried out in compliance with legislation, government policies and other authorities.

Monitoring the implementation of our recommendations is an important part of our obligation to report to the House of Assembly. Our objective is to monitor and report the degree to which positive change has occurred as a result of the implementation of recommendations in our prior years' reports.

In 1996, we commenced a formal process of monitoring and updating the comments and recommendations included in our previous Annual Reports to the House of Assembly. It is our intention to monitor and update the recommendations in each Annual Report two years after it has been issued. Monitoring will continue until we are reasonably satisfied that issues are being adequately addressed or are no longer valid.

This Chapter includes the results of these monitoring activities on our Annual Reports up to and including 2000.

Department of Finance

3.2.1 CHC Composites Inc.
(1999 Annual Report, Part 3.11)

Introduction

In our 1999 Annual Report to the House of Assembly, we reported on the Strategic Enterprise Development Special Reserve Fund including Government's investment in CHC Composites Inc., formerly Newfoundland Bonding and Composites Limited. CHC Composites Inc. is a wholly owned subsidiary of CHC Helicopters International Inc. It was established in July 1998 to provide manufacturing, repair and engineering services for aircraft components.

In November 1998, Government signed an agreement with Newfoundland Bonding and Composites Limited. In accordance with the Agreement, from November 1998 to October 1999, Government paid $9.5 million to the Company in exchange for 95,000 redeemable preferred shares with a par value of $100 per share.

Our 1999 review concluded the following:

- Although the former Department of Development and Rural Renewal, through Enterprise Newfoundland and Labrador Corporation, was responsible for the disbursement of the funds, it had very little to do with the assessment, approval and monitoring of the project. The Department of Finance was responsible for monitoring of this investment. It was evident from our review that the project was pre-approved before the Board of Enterprise Newfoundland and Labrador Corporation or either of the departments became involved.

- The approval of this investment was not subject to the policies and procedures as established for other equity investments. Thorough assessments were not performed, verification of business plan assertions was limited and monitoring was inadequate.

Update

We completed an additional review in January 2002 at the Department of Finance to determine whether the terms of the Agreement between the Province and Company were complied with. We also reviewed how the Department was monitoring this investment. The results of this review were communicated to the Department of Finance. The review concluded the following:

Update on Prior Years' Report Items

- The Agreement between Government and the Company entitles the Company to redeem, at nominal value, 9,500 preference shares for every 100 person years of employment provided by the Company during the first six years of operation. The Company's auditors are required to certify the calculation of the amount redeemed. Although the Company commenced operations in July 1999, none of the shares have been redeemed as of 21 January 2002. As a result, Government does not know how many person years of employment have been created since 1999.

- The Agreement between Government and the Company stipulates that while the preference shares are outstanding to Government, the Company is to provide a complete set of audited financial statements each year to Government not later than three months after its 30 April fiscal year end. The required audited financial statements have never been provided to Government.

- The Agreement between Government and the Company provides that the Company maintain accurate and complete accounting records in accordance with Canadian generally accepted accounting principles. The Agreement further provides that while the preference shares are outstanding to Government, the Government is permitted to inspect these records. Government has never inspected the Company's accounting records.

- The Agreement between Government and the Company stipulates that Government shall be entitled, at all times while the preference shares are outstanding to Government, to hold one seat on the Board of Directors of the Company. Officials of the Department of Finance informed us that Government has not designated a director for the Company's Board of Directors.

- While the preference shares are outstanding to Government, the Company is required to provide Government with evidence of satisfactory insurance over all insurable assets. The required certificate of insurance has been received by Government.

- Our review identified a number of issues that Government needs to address with respect to its security on the $9.5 million equity investment in the Company.

Update on Prior Years' Report Items

We completed a further update in October 2002 to determine the action the Department had taken with respect to the issues raised in our January 2002 review. Our review indicated that the Department has taken action to address the issues previously identified, with the following exceptions:

- The Agreement between Government and the Company stipulates that while the preference shares are outstanding to Government, the Company is to provide a complete set of audited financial statements each year to Government not later than three months after its 30 April fiscal year end. Although the required audited financial statements were provided to Government, the 1999, 2000 and 2001 financial statements were not received until June 2002, subsequent to the required dates of July 1999, July 2000 and July 2001.

- The Agreement between Government and the Company provides that the Company maintain accurate and complete accounting records in accordance with Canadian generally accepted accounting principles. The agreement further provides that while the preference shares are outstanding to Government, the Government is permitted to inspect these records. Government has never inspected the Company's accounting records.

- The Agreement between Government and the Company stipulates that Government shall be entitled, at all times while the preference shares are outstanding to Government, to hold one seat on the Board of Directors of the Company. Officials of the Department of Finance informed us that Government has not designated a director for the Company's Board of Directors.

- While the preference shares are outstanding to Government, the Company is required to provide Government with evidence of satisfactory insurance over all insurable assets. The last required certificate of insurance expired 1 May 2002, and as at October 2002, Government has not verified that the Company has renewed its insurance policy.

Update on Prior Years' Report Items

- Our review identified that the following issues relating to security were still outstanding:
  - Tooling and equipment listed on Schedule "A" to the Security Debenture indicated that certain items are not specific enough in their description and do not have serial numbers listed. As a result, Government may have difficulty identifying the related tooling and equipment in the event of any required security enforcement activities. In addition, certain of the equipment, such as a sanding or painting booth, are described in such a manner that they may conceivably be affixed to the premises. In order to ensure that there is no jeopardy of these items being subordinated to third party interests, Government should register a notice for these items in the Newfoundland Deeds Registry and deliver the notice to the Corporation. As of October 2002, this notice has not been registered by Government.
  - On 8 June 2001, Newfoundland Bonding and Composites Limited changed its corporate name to CHC Composites Inc. The *Personal Property Security Act* stipulates that where a secured party has knowledge of a change to a debtor's name, the secured party has 15 days to amend the security registration to protect the priority of its security interest against subsequent secured parties, purchasers or lessees of the collateral for value and without notice of the security interest. As of October 2002, Government has not amended its security registration in respect of the Security Debenture to protect the priority of its security interest. Government should amend its security registration as soon as possible.
  - Although Government is aware that the Company has granted security interests to two other companies contrary to the terms of the Security Debenture, we were advised that while CHC Composites Inc. should have requested consent from Government, consent would not have been withheld in any event.

Update on Prior Years' Report Items

In November 2002, we contacted the Department of Finance and requested a response to the issues raised during our follow-up review. The information provided by the Department in response to our request is outlined below.

Action Taken

Department officials indicated that:

Employment Creation - The Company opened its manufacturing facility in July 1999 and to fiscal year end 30 April 2002 has been in a start-up, or pre-production phase. The Company is required to redeem the preference shares held by Government over a period of six years following commencement of operations. Since commercial operations have not commenced as of 30 April 2002, as supported by the Company's audited financial statements, then there has been no requirement to report on person years of employment created, or to redeem any shares.

Audited Financial Statements - The Company is required to provide Government with their audited financial statements within 90 days subsequent to fiscal year end. Government is in receipt of audited statements for the fiscal years ended 30 April 1999, 2000, and 2001. The Company was made aware of the Department's concerns with respect to the timely receipt of audited financial statements, and the Department was subsequently provided with audited financial statements for the year ended 30 April 2002 on 5 August 2002.

Inspection of Accounting Records/Appointment of Government Director - These issues will be addressed, if necessary, as the Company progresses with commercial operations. To date, nothing has been disclosed in the audited financial statements or the Auditor's Report which would indicate that the Company is not following Canadian Generally Accepted Accounting Principles. As a result, the Department does not feel that it is necessary to undertake its own review of the accounting records.

Insurance - The Company does have insurance on its assets and has now provided the Department with formal documentation confirming that this insurance remains in place. Prior to receipt of this documentation, the Company had verbally advised the Department that insurance was being carried in compliance with the Agreement.

Security - The equipment listed on Schedule A does not contain serial numbers in certain cases given the unique and customized nature of the equipment involved. The Department will ensure that the Province's security registration contains all serial numbers which are available. With respect to the equipment which may be affixed to the premises, the Department has now filed a notice for these items with the Registry of Deeds.

A Second Amending Agreement was executed between the Province and the Company on 23 October 2001, to formally recognize the name change of the Company from Newfoundland Bonding and Composites Limited. The Province's solicitor filed an amended financing statement on 12 March 2002 under the Personal Property Security Act, thereby formally registering the name change.

3.2.2 Newfoundland Government Fund Limited (2000 Annual Report, Part 3.20)

Introduction

In 2000, we conducted a review of the Newfoundland Government Fund Limited. The objectives of our review were to determine the status of the investment units and to assess the Corporation's progress with respect to the observations and recommendations included in our 1998 and 1999 reports.

The Newfoundland Government Fund Limited was incorporated on 10 November 1995 under the *Corporations Act* of the Province of Newfoundland. All shares of the Corporation are held by Ministers of the Crown on behalf of the Province. Its affairs are governed by a Board of Directors which is elected by the shareholders of the Corporation.

The Corporation is a Government-administered venture capital fund under the *Immigration Act* (Canada) and Regulations. Under the Canadian Immigrant Investor Program, the Corporation issued an Offering Memorandum in September of 1996 to raise funds from immigrant investors in order to provide loan and equity capital to establish, expand, purchase, maintain or revitalize businesses or commercial ventures in Newfoundland. For the immigrant investors, in addition to earning a nominal return on their capital, their investment in the Corporation helps satisfy a portion of their visa requirements under Canada's Immigrant Investor Program.

The offering was comprised of a number of units each of which represents a $250,000 promissory note bearing interest at the simple rate of 2% per annum. Although each promissory note is repayable in full five years from the date on which 70% of the investor proceeds are invested, or is refundable upon refusal of an investor's Canadian visa application, neither the Government of Canada nor the Government of Newfoundland and Labrador offers any guarantees or assurances of a return on an investor's original investment and neither government is liable for any loss or damages that may be suffered by an investor as a result of the investment. The minimum and maximum amounts of the offering were $3.5 million (14 units) and $35 million (140 units) respectively.

At 31 October 2000, the Corporation had closed and invested the proceeds of 53 units ($13.25 million) and had closed another 20 units ($5 million) which had not been invested. A further 19 units ($4.75 million) with full subscription proceeds were being held by the escrow agent along with 25 units with potential proceeds of $6.25 million for which full subscription proceeds had not been received. The remaining 23 units had been refunded or withdrawn.

Our 2000 review indicated that the Corporation had taken action to address many of the issues raised in previous reports. However, further improvements were required. For example:

- As of November 2000, the Corporation had invested $9.45 million in two eligible projects which involved the construction of health care facilities in Bonne Bay and Fogo Island. It was estimated that it would take $17.7 million to fully fund these two projects. Such an investment would require 70% of the proceeds of 102 units. The Corporation was unsure as to whether or not it would have sufficient proceeds to fully fund both eligible projects as all visa applications may not be approved and consequently the proceeds from the 102 units would not be available for investment.

- The Corporation had not invested 70% of the $5 million investment proceeds closed in January 2000 (or $3.5 million) in eligible business operations within 9 months after the release of the proceeds from the Escrow Agent as required by the *Immigration Act* (Canada) and Regulations. Therefore, the Corporation was not in compliance with this *Act*.

- The Corporation had not exercised its rights as permitted under the Offering Memorandum to have the Escrow Agent enforce the requirement that investors make the minimum required deposit and pay the balance within the required time frame.

- Subscription documents were not being forwarded to the Corporation on the closing dates by the Escrow Agent.
- The Corporation had not approved the closing of units on a timely basis which resulted in a loss of interest revenue for the Corporation.

Update

In June 2002, we contacted the Newfoundland Government Fund Limited requesting an update as to progress on the comments and recommendations included in our 2000 report. The information provided by the Corporation in response to our request is outlined below.

Investment in Eligible Projects

2000 Recommendation

The Corporation should review the planned investments and the expected proceeds from investors to ensure that there is sufficient funding available for the Corporation to invest in the approved eligible projects.

Action Taken

Corporation officials indicated that in September 2001, following a decision by Government to delay construction of the Fogo Island health care facility, it was determined that the project would not be financed by the Newfoundland Government Fund Limited. This made $4.45 million available for investment in other projects and eliminated the concern that sufficient funding would not be available to fund approved eligible projects. The Corporation further indicated that a five year loan to a developer in the amount of $4.625 million was approved by the Board of Directors in August 2002 for the construction of a school in Lawn.

Compliance with the Immigration Act (Canada) and Regulations

2000 Recommendation

The Corporation should comply with the Immigration Act *(Canada) and Regulations*

Action Taken

Corporation officials indicated that in September 2001, Government decided to delay the Fogo Island health care facility project due to cost over-runs. The project will continue at some later date, but the project will not be financed by the Newfoundland Government Fund Limited. As a result, the Corporation was not in compliance with the *Immigration Act* (Canada) and Regulations, since it had not invested all funds available at that time in two eligible projects. In August 2002, the Corporation approved a $4.625 million investment in the construction of a new school in Lawn. As a result, the Corporation will have invested in two eligible projects, and will again be in compliance with the *Immigration Act* (Canada) and Regulations.

Compliance with the Confidential Offering Memorandum

2000 Recommendations

The Corporation should ensure compliance with the Confidential Offering Memorandum and should consider all of its rights under the Memorandum.

The Corporation should continue efforts to properly maintain all records of the Corporation.

Action Taken

The Corporation has taken steps to reduce instances of non-compliance with the Confidential Offering Memorandum. However, under the terms of the Memorandum, subscribers are required to make a minimum non-refundable deposit of $50,000 with the balance to be paid within 60 days of the deposit date. The Corporation is still not enforcing these requirements. As at 30 September 2002, there were 2 units with deposits greater than $50,000 and 3 units with deposits less than $50,000. None of these 5 units have had the balance paid within 60 days of the deposit date.

Closing of Investor Units

2000 Recommendation

The Corporation should review and approve the closure of investor units on a timely basis.

Action Taken

As of 30 September 2002, the Corporation had closed and invested the proceeds of 80 units. Six of these units were closed in September 2002 and were invested in the new Lawn School project. The Corporation also has 12 investor units held in escrow awaiting closure, and a further 5 units for which full subscription proceeds have not yet been received. The Corporation indicates that it will consider its options with respect to these units, including closure of the units, in order to invest in a third project or possibly transferring the investors to the new Federal Immigrant Investor Program.

Department of Government Services and Lands

3.2.3 Food Premises Inspection and Licensing (1998 Annual Report, Part 3.15)

Introduction

In 1998, we performed a review at the Department of Government Services and Lands of the Food Premises Inspection and Licensing program.

We concluded that some food premises were operating without a valid licence and that licences were issued even though the documentation required under the *Food Premises Regulations*, to assess the food premises for licensing, was not on file. In addition, we found that the Government Service Centre could not demonstrate whether food premises were fully complying with the *Regulations* because the Environmental Health Inspection Report used by inspectors was not always fully completed.

A Memorandum of Understanding was entered into in 1995 when the Government Service Centre became responsible for food inspection and licensing on behalf of the Department of Health and Community Services. Our review disclosed the Government Service Centre was not complying with the Memorandum of Understanding in that food premises were not being inspected the required number of times each year. Also, we could not determine whether the number of inspections currently prescribed for the various types of food premises was appropriate and that the Department of Health and Community Services had not developed risk assessment tools and risk management techniques to rationalize how frequently food premises should be inspected. As well, food premises inspections relating to licence renewals were not typically completed between March and November of each year and, therefore, inspections were not representative of year round operations of the food premises.

It was also concluded that the Department of Health and Community Services and the Health and Community Services Boards were not receiving sufficient information from the Government Service Centre on the inspection of food premises in the Province.

The Department of Health and Community Services requires the development and maintenance of an ongoing, up to date, listing of all active food establishments to facilitate inspections. Two of the five Government Service Centre Regions did not have a database of licensed food premises, while the databases currently utilized by the remaining three Regions were not current and accurate. Also, follow up inspections of previously identified health hazards were not always performed.

We also found that policies being followed by the Government Service Centre may not reflect current legislative requirements and that there had been no review of Department of Health and Community Services' policies relating to the inspection and licensing of food establishments since they were approved in 1994.

As well, the Government Service Centre did not have clear established performance indicators or monitoring procedures for its inspection and licensing activity.

The lack of clear operational objectives for scheduling and monitoring of inspection and licensing activity at the Government Service Centre contributed to the overall failure to discharge inspection and licensing responsibilities.

In our 2001 annual report, we included an update on the Department's progress towards implementing our 1998 recommendations. At that time, Departmental officials indicated that the inspection report forms had been revised and a risk based inspection approach had been developed, the implementation of which was delayed due to the assignment of resources to drinking water quality issues. It was also indicated that a new computerized Application Management and Data Automation (AMANDA) system was developed to provide for real time input of inspection and license information which will help ensure compliance with the *Food Premises Regulations* and the MOU.

Update

In June 2002, we contacted the Department of Government Services and Lands requesting an update as to progress on the comments and recommendations included in our 1998 report. The information provided by the Department in response to our request is outlined below.

Update on Prior Years' Report Items

1. Compliance with *Food Premises Regulations*

1998 Recommendations

Reports used by the inspectors should be revised to ensure compliance with the Food Premises Regulations.

The Government Service Centre should comply with the Food Premises Regulations.

Action Taken

Departmental officials indicated that inspectors are now using revised report forms in connection with a new Risk Based Inspection Approach to ensure compliance with the *Food Premises Regulations*. It was also indicated that the AMANDA system now in place precludes the issuance of a food premises licence without the required inspection and documentation.

2. Compliance with the Memorandum of Understanding

1998 Recommendations

Risk assessment tools, risk management techniques and complete up-to-date guidelines and standards of accepted practice should be developed for the Government Service Centre in accordance with the Memorandum of Understanding.

The Government Service Centre should comply with the requirements of the Memorandum of Understanding.

Action Taken

Departmental officials indicated that the process of assigning inspection frequency based on risk rather than on class of food premises commenced on 1 April 2002. By the end of the 2002-03 year, the Department plans to have inspected each premise twice, the minimum number deemed necessary to assign a risk score. This score, along with other factors, will be considered in assigning a risk category and the corresponding inspection frequency. In the meantime, it was indicated that a 1999 revision to the Memorandum of Understanding provides a decrease in assigned inspection frequencies pending the completion of the risk assessment exercise.

The Department has almost completed the hiring of an additional 12 Environmental Health Officers approved by Government over the past two years and expects to see a significant impact from the additional hires on the food premises inspection program by the end of the 2002-03 year.

Departmental officials also indicated that consultations are ongoing with the Department of Health and Community Services in an attempt to introduce a staggered licensing system which would see license renewals occur on the annual anniversary date from the last license issuance, rather than on 31 March. This would alleviate the concentration of licensing efforts in the short time frame leading up to 31 March.

The delivery of health promotion activities and the division of operational responsibility remains unchanged since our last update. A newly created Standing Committee has been established to revise the current tripartite MOU, which was a key recommendation of the ad hoc committee reviewing the MOU. The Committee will hold its initial meeting in the Fall of 2002 to begin the work of revising the MOU.

It was further indicated that protocol development remains unchanged since our last update. The protocols required to be developed by the MOU are at various stages of development and those developed are still in draft form. The 1999 Memorandum of Understanding targets five areas for protocol development:

1. Investigation of Communicable Diseases
2. Emergency Preparedness Planning
3. Communications
4. Conflict Resolution
5. Information Collection, Recording and Dissemination

The new standing Committee will assign responsibility for the development of these protocols.

3. Adequacy of and Compliance with Policy and Procedures

(a) Adequacy of Policy and Procedures

1998 Recommendation

The Government Services Centre should continue to follow Department of Health and Community Services' policy and procedures with respect to temporary food premises until the Department develops standard health guidelines.

Action Taken

Departmental officials indicated that a new policy manual, which was referenced in our 2001 update and which is being developed jointly by the Department of Health and Community Services and the Regional Boards, is at the final draft stage. The standard health guidelines referenced in the *Food Premises Regulations* are now complete and have been distributed to inspectors.

(b) Licensing of Food Establishments

1998 Recommendation

The Government Service Centre should comply with Department of Health and Community Services' policy and procedures.

Action Taken

Departmental officials indicated that the AMANDA system, which is intended to eliminate inconsistencies in the maintenance of a Province-wide record of all food premises, is now in place. The system ensures that an up-to-date list of food premises in an inspector's assigned geographical area is readily available to inspectors and managers. Management now have the capacity to track individual entries of inspectors to determine if premises are licensed, if hazards are corrected and whether those hazards were corrected within the required time frames.

(c) Inspection and Documentation of Food Establishments

1998 Recommendation

The Government Service Centre should comply with Department of Health and Community Services' policy and procedures.

Action Taken

Departmental officials indicated that the AMANDA system now allows managers to track frequency of inspections and compliance with follow-up inspection dates. The new inspection form now being used ensures that the required data will be captured during an inspection. The data must be entered in order to assign a required ranking score.

(d) Investigation of Complaints

1998 Recommendation

The Government Service Centres should comply with Department of Health and Community Services' policy and procedures.

Action Taken

Departmental officials indicated that for each complaint received, the AMANDA system now requires entry of the following: details of the investigation; recommendations made; corrective action taken; and an indication that the plaintiff was advised. Also, the new policy and procedures manual of the Department of Health and Community Services relating to food safety will set out time frames for investigation and reporting results of food premises complaints.

4. Performance Indicators and Monitoring Results

1998 Recommendations

The Government Service Centre should establish clear operational goals and objectives with respect to its food inspection and licensing program. Established goals and objectives should reflect the broader strategic objectives of the Department of Health and Community Services and Health and Community Services Boards.

The Government Service Centre should properly plan and schedule its inspection and licensing activity to ensure its operational goals and objectives are achieved. The Government Service Centre should ensure management participates in the planning and scheduling of inspection and licensing activity.

Action Taken

Departmental officials indicated that, consistent with the strategic goals and objectives stated in its strategic plan, the following tasks have been performed:

- Embarked upon a stakeholder consultation survey, including food safety program stakeholders, to take a measure of performance and stakeholder expectations.

- Appointed a member of the Executive to the Standing Committee to review, revise and clarify the Memorandum of Understanding.
- Participated in ongoing consultations with the Department of Health and Community Services in implementing the risk based approach to food inspections, revising the licensing system and determining the content and time frames of reports provided by the Government Service Centre.
- Undertaken an organizational review including consultations with partner agencies, the Department of Health and Community Services and the Regional Boards to assess strengths, weaknesses, expectations and areas of improvement. The food inspection and licensing program is a critical component of this review. Most of this data has been compiled and the evaluation exercise is about to commence.

It was also indicated that the current food safety operational plan is focused on completing, in the current fiscal year if attainable, the two required inspections necessary, coupled with other considerations, to complete the risk assessment of premises and assign the inspection frequency corresponding to the assigned risk. Once the risk category is assigned, inspectors and managers will ensure that the required inspection frequencies are met.

Department of Government Services and Lands

3.2.4 Management of Crown Lands (1999 Annual Report, Part 3.26)

Introduction

In 1999, we conducted a review of the management of Crown lands to determine whether the Department had adequate systems and procedures to:

- identify Crown land and determine how the land is being utilized;
- develop and coordinate provincial land use management plans;
- dispose of Crown land in accordance with legislation and Departmental policies; and
- identify Crown land leases, licences and grants, to ensure these lands are being utilized as intended and to maintain appropriate billing and collection procedures over this area.

Update on Prior Years' Report Items

The Department of Government Services and Lands is responsible for the management of the Province's Crown lands. Crown lands comprise approximately 95% of the Province's land mass and as such is one of the Province's most significant natural resources. The management of Crown land is assigned to the Lands Branch of the Department of Government Services and Lands. This Branch is comprised of three Divisions: Crown Lands Administration, Surveys and Mapping, and Land Management. The Branch's responsibilities include processing land applications, preventing unauthorized use of Crown land, resolving conflicts in land use and ownership, producing a map inventory of land in the Province, and developing land use policy and management plans.

Our 1999 review indicated that some of the Department's systems and procedures for managing Crown lands were not adequate. For example:

- The Department did not have a comprehensive and complete land parcel identification system for all land in the Province. As a result, it would be difficult for Government to effectively manage and plan the use of Crown lands.
- Planning for land use within Government was found to be fragmented and covers only small areas of the Province. This is due to the Province not having comprehensive land use policies to facilitate a co-ordinated approach for land use within Government.
- The following observations were noted with respect to application processing:
    - A Departmental report on the Crown Lands Division recognized a number of areas that cause delays in the application process that could be improved.
    - Information maintained in the Department's system for tracking the progress of an application was often inaccurate.
- The Land Management Division did not maintain adequate information on cottage lot developments, including the status of the lot sales and the associated costs and revenues.
- The Department did not maintain a complete listing of all EDGE companies that were leasing Crown land for $1. Also, the Department did not adequately monitor these leases to ensure that the land was being used as intended and that the companies maintained EDGE status.

- The Department had inadequate monitoring procedures to ensure that the lessee had adhered to the terms of the lease with respect to the type of development and the period to complete development.
- The Department did not monitor accounts receivable nor did it perform any regular collection activity.
- Our review of the Province's development of the implementation plan for the establishment of the Geographic Information System (GIS) throughout Government noted several problems including: the Department had been completing the development without an approved Provincial Geomatics Strategy in place; and the data converted into the GIS was found to be incomplete and outdated.

Update

In June 2002, we contacted the Department of Government Services and Lands requesting an update as to progress on the comments and recommendations included in our 1999 report. The information provided by the Department in response to our request is outlined below.

Identification and Use of Crown Lands

1999 Recommendation

The Department should continue efforts to develop a complete land parcel identification system to establish the extent and boundaries of Crown lands.

Action Taken

Departmental officials indicated that as of October 2002, the Crown Lands Registry contained over 64,200 land titles comprising approximately 40,800 grants, 11,300 leases and 12,100 licenses of occupation. Approximately 25,000 titles remain to be plotted in the Crown Lands Geographic Information System. Although the Division's operational objective is to plot at least 4,000 titles per year, this objective is not being met as a result of staffing shortages.

Land Use Policy and Planning

1999 Recommendation

The Department should continue efforts to develop comprehensive land use policies to facilitate a co-ordinated approach for land use within Government. The Department should also review the merits of undertaking more comprehensive land planning in the Province.

Update on Prior Years' Report Items

Action Taken

Departmental officials indicated that a project has been initiated to draft Provincial land use policies. Also, a pilot land management project has been proposed, in consultation with other resource management departments, as a priority area. This is in accordance with recommendations of the *Committee on the Use of Outdoor Resources* and the *1994 Report of the Interdepartmental Review Committee on Land Use Policy and Planning*. The Interdepartmental Land Use Committee will be used as the consultation/land management forum for the pilot land management project.

Disposition of Crown Lands

1999 Recommendations

The Department should continue efforts to both improve the efficiency of the application process and to improve the accuracy of data in the Application Tracking System with which to monitor the status of applications.

The referral to the Municipal Assessment Agency should be delayed until the Regional Lands Office approves the application.

Action Taken

Departmental officials indicated that the policy and procedures for regular monitoring of applications at scheduled time frames is followed closely. The Department completed a current random sample of 80 applications which showed significant improvements in the processing of applications from the date of receipt to the date of issuance of land title. This sample showed that applications are being completed and land titles issued within 51 working days (excluding delays by the applicant or referral agencies), compared to the 240 calender days as identified in our Office's 1999 Report. It was also indicated that the new Application Management System, designed to improve monitoring and reporting functions, commenced implementation on a "region by region" basis in April 2002 with Province wide implementation in July 2002.

With respect to delaying the referral to the Municipal Assessment Agency until the Regional Lands Office approves the application, it was indicated that the procedure for submitting these referrals has been restructured and that all Crown land valuations are now prepared by the Land Management Division. Valuation is now assessed only after it is determined that the application will be approved. This has resulted in a significant cost savings to the Department and has reduced the approval period for Crown land applications.

Management of Crown Land Leases, Licenses and Grants

1999 Recommendations

The Department should review its monitoring procedures over land use.

As revenue from leases assists in covering costs of managing Crown lands, the Department should participate in the monitoring of the accounts receivable.

The Department should continue its involvement in the development of both a Geomatics Strategy for the Province and Geographic Information System applications.

Action Taken

Departmental officials indicated that there is a Province wide uniform system based on affidavits and follow-up spot inspections for all leases to ensure compliance with the development conditions of the lease. Additional compliance inspections are also carried out when Lands personnel are working in an area on other matters.

The Central Services Division of the Department of Municipal and Provincial Affairs provides financial management services to the Department of Government Services and Lands. It was indicated that senior officials of both departments meet on several occasions during the year to discuss various issues regarding accounts receivables, including collections on outstanding accounts. In addition, collection staff are in regular contact with the Lands Branch to resolve any issues that impact upon the accounts receivable. The Department is continuing to improve collection efforts and in early 2002, an automated collection letter was implemented. Since that time, collection letters have been sent to debtors in accordance with the established time frames. In addition, the Department has selected for special attention (e.g. submitting to Small Claims Court, Department of Justice or the Credit Bureau) accounts with a balance of $2,000 or greater that have been outstanding for more than 120 days.

It was also indicated that the Department continues its progress on the Provincial Geomatics Strategy and the implementation of integrated Geographic Information Systems. The intent of the Geomatics Strategy is to build on the existing processes and promote optimal cooperation in partnership with the local industry. The Department is continuing its consultation and coordination role within Government. Also, the Lands Branch continues to build partnerships to cost share community mapping with other departments, municipal governments, and utilities and is currently involved in a number of projects in this area. Furthermore, the Geomatics Technical Committee of the Geomatics Steering Committee has been reconvened and a Government Geomatics Technical Committee has been established to coordinate the technical aspects of the strategy. The Surveys and Mapping Division has started publication of a geomatics e-newsletter to improve communications with Geomatic users.

Department of Government Services and Lands

3.2.5 Weigh Scale Operations (2000 Annual Report, Part 3.17)

Introduction

In 2000, we performed a review of weigh scale operations at the Motor Registration Division (MRD) of the Department of Government Services and Lands.

We concluded that the administration of weigh scale activities was not adequate to ensure that the highway safety objectives of the program were being met. There was no planning process in place to ensure the use of available resources was optimized in addressing those objectives. In addition, the hours during which permanent and portable weigh scale operations were operational contained significant gaps, many of which were predictable and could facilitate the avoidance of enforcement activities. As well, considerable judgement was exercised by weigh scale inspectors in the performance of their duties in terms of scheduling shifts, the inspections process, enforcement of legislative provisions, and documentation of their work. Compounding this was the fact that supervision of weigh scale operations was lacking and reporting was virtually non-existent.

Update

In June 2002, we contacted the Department of Government Services and Lands requesting an update as to progress on the comments and recommendations included in our 2000 report. The information provided by the Department in response to our request is outlined below.

Planning

2000 Recommendation

The Department should undertake an analysis of its current enforcement environment and prepare a strategy to deal with the issues identified. Such a strategy should be coordinated with other highway safety enforcement activities.

Action Taken

Departmental officials indicated that a new management team at Motor Registration Division is reviewing the functioning of the fixed highway scales and portable scales operations. This includes the review of a study on Heavy Vehicle Weight Enforcement in Newfoundland completed by the Policy and Planning Division of the Department of Works, Services and Transportation. Consultations are also underway with a university professor from outside the Province who has been involved in a number of studies related to vehicle weight, dimensions and enforcement. MRD continues to perform inspection activities in conjunction with other agencies and internal and external groups as part of their current enforcement environment. These activities include unscheduled vehicle inspections, facility audits of commercial carriers, semi-annual inspections of buses and ambulances, and programs aimed at seat belt enforcement and child restraints.

It was also indicated that MRD is reviewing the roles of fixed and portable scale operations to maximize their effectiveness. On a pilot basis, some weigh scale staff are operating on a staggered/random basis so as to increase the effectiveness of their highway enforcement activities.

Hours of Operation

2000 Recommendation

The Department should review the impact of downtime and predictable hours of work on weigh scale operations. Consideration should be given to the coordination of hours of operation between regions.

Action Taken

Departmental officials indicated that permanent weigh scale stations are more effective if they operate in conjunction with random portable weigh scale inspections. A pilot project in a selected region has commenced whereby some weigh scale inspectors operate at a random location and at random times different from their normal hours of work. Decisions on utilizing a random approach across the Province will be made after the pilot inspections activity has been completed and evaluated. As well, discussions have commenced with one local carrier on the use of weigh in motion scales that would alleviate the need for the carrier's vehicles to stop at any of the permanent weigh scale locations.

Guidance for Staff

2000 Recommendation

The Department should review current procedures in place with a view to improving direction to staff. Among those areas for consideration include: formal policy and procedures, standards for performance, and training.

Action Taken

Departmental officials indicated that highway enforcement policy is now centralized at headquarters, with day to day assignment of workloads continuing to reside in the regions. During the past year, guidance on matters such as those relating to Load Security Regulations and the role of Manufacturer's Vehicle Specifications in determining maximum weights was communicated to highway enforcement personnel including weigh scale inspectors. MRD is currently commencing an internal secondment opportunity to assist in the development of revised MRD policies in all areas of operation.

It was also indicated that discussions are currently ongoing with the Maritime Provinces to implement methods to achieve consistency in the enforcement of harmonized weights and dimensions. The "Harmonized Trucking Strategy" study undertaken for the Atlantic Canada Opportunities Agency (ACOA) and the four Atlantic Provinces recommends that the Atlantic Provinces study common training policies, practices and procedures for roadside enforcement. MRD is not only attempting to ensure consistency in this Province but is also looking at consistent practices for the Atlantic region to increase efficiencies for industry while maximizing highway safety.

Over the past year, there were a number of formal training events which involved weigh scale inspectors including training for: CVSA roadside inspection; transportation of dangerous goods; tank inspection; and weights and dimensions.

Management Systems

2000 Recommendation

The Department should ensure that management receives information necessary for planning, decision making, control, and ensuring compliance with legislative responsibilities.

Action Taken

Departmental officials indicated that MRD receives inspection information from a number of sources. Each year the Department of Works, Services and Transportation prepares annual accident statistics on collisions affecting all types of vehicles. Statistics are also obtained from special initiatives, staff, and information from other agencies and jurisdictions. As a result of this information, it is felt that the rutting of pavement caused by overweight vehicles continues to be a problem. However, the comparative analysis with other Canadian jurisdictions of the low incidence of fatalities, injuries, and numbers of collisions involving commercial carriers apparently indicated the safety programs, inclusive of weight control, are working.

Planning, decision making, control and compliance with regulation has been enhanced this past year by vesting all development and interpretation of highway enforcement policies with the Manager of Traffic Safety Programs at Headquarters. The day to day supervision and assignment of workloads remains within the regions.

Through its participation in the Canadian Council of Motor Transport Administrators and the American Association of Motor Vehicle Administrators, MRD has information readily available for a variety of topics on a national or North American basis. MRD will continue to evaluate its information needs and the resources available for its planning, decision making, control and compliance functions.

lic Service Commission

6 Recruitment Delegation (2000 Annual Report, Part 3.22)

oduction

In our 2000 Report we commented on our review of the Public Service Commission in the area of recruitment. The overall objective of our review was to examine the legislative mandate of the Commission and assess whether adequate systems were in place to fulfil this mandate.

Since the Commission had entered into agreements with each department and the 5 Crown agencies covered by the *Public Service Commission Act*, relating to delegation of recruitment and authority, our review focused primarily on how the Commission monitored staff appointments made by the various departments and entities.

Our review disclosed that:

- Although there were approximately 43,000 employees in the Provincial public sector, the *Public Service Commission Act* applied only to 6,400 employees of Government departments and 5 Crown agencies. Furthermore, since the *Act* only applies to the recruitment of permanent employees and does not apply to the appointment of temporary employees, seasonal employees, and a number of other positions within the public service, only 5,277 of the 8,404 positions in the various departments of Government were covered by the *Act*. As a result, the *Act* does not provide for consistency of recruitment within the entire public service.

- The Commission did not conduct annual reviews of the appointments and promotions at Government departments and the 5 Crown agencies.

- Legislative amendments had not been made to the *Public Service Commission Act* to provide for the transfer of a number of personnel areas from the Public Service Commission to Treasury Board Secretariat, although this transfer had been made.

- The Commission's annual reports, which are required by the *Act* to be tabled in the House of Assembly on an annual basis were not tabled for 1996, 1997 and 1998. A report for the period 1996 to 1999 was tabled at the time of our audit in May 2000.

As a result of our 2000 review we recommended that the Commission:

- Review annually any staffing actions taken under delegated staffing authorities;

- Ensure staffing actions taken by each department or agency is independently verified by the Commission;

- Establish policies and standards relating to the documentation which should be included in the files which support any reviews carried out to assess staffing actions taken under delegated staffing authorities. These files should include complete information supporting the reviews and should be retained by the Commission to support any reports issued;

- Monitor, on an ongoing basis, staffing actions taken by departments and agencies;

- Ensure that recruitment in the entire public service is subject to the same standards;

- Request that the *Public Service Commission Act* be reviewed; and

- Prepare annual reports and have them tabled in the House of Assembly.

In June 2002, we contacted the Public Service Commission requesting an update as to the progress on the comments and recommendations included in our 2000 Report. In its response the Commission confirmed that it remains committed to its earlier replies to our report item and indicated that its Staffing and Compliance Division has modified its approach to the audit of Delegated Staffing Authority. The modified approach is currently being implemented and will be reflected in the Commission's annual report.

The Commission also indicated that it felt changes were not necessary to the *Public Service Commission Act* to provide for the transfer of personnel areas to Treasury Board Secretariat. Therefore, no changes have been considered.

Our review disclosed that the Commission has prepared annual reports for the years 2000 and 2001 and that these reports have been tabled in the House of Assembly.

urism, Culture and Recreation

ement
al Report, Part 3.23)

In 2000, we performed a review of the Art Procurement Program administered by the Cultural Affairs Division of the Department of Tourism, Culture and Recreation.

Our review concluded that there were serious deficiencies in the management and control of art work acquired under the Art Procurement Program. In particular:

- Our examination of 506 pieces of art work determined that 102 pieces, at a cost of $106,463, could not be accounted for by officials of the Art Procurement Program. An additional 72 pieces of art, at a cost of $119,309, were located either in a different room or building from that identified by the inventory information system. The inventory information system also identified 16 pieces of art work, at a cost of $5,365, as lost.

  There was no process to report and record the movement of art work from its original assigned location. As a result, the information system which identifies the location of the art work was not being accurately updated and art work could not always be accounted for.

- The location of acquired art work was not always documented in the information system. Furthermore, some of the art work that was documented in the information system was not recorded on a timely basis. This increases the difficulty of accounting for and adequately controlling this art work.

- Periodic physical counts were not conducted. In addition, no alternate procedures were performed to identify discrepancies between the physical art work and the location of the art work as identified in the information system.

- There was no regular conservation and maintenance process to reduce the risk of damage and deterioration of the collection.

Update

Update

ddition, during the review we noted the following:

Documentation with respect to the rationale for individual acquisitions was destroyed within 6 months of the acquisition decisions. Authority for the destruction of these public records has not been obtained as required under the *Archives Act*.

Backup and recovery procedures for the inventory information system were not effective. In addition, controls over access to the inventory information system required improvement.

There were no policies with respect to physical and accounting controls over art work.

a result of our 2000 review, we recommended that the Department uld develop policies to control and account for the art work acquired er the Art Procurement Program. These policies should include uirements for periodic physical counts, a process to record the vement of art work, and a program for the regular conservation and ntenance of artwork.

June 2002, we contacted the Department of Tourism, Culture and reation requesting an update as to the progress on the comments and ommendations included in our 2000 report. The information provided he Department in response to our request is outlined below.

vas indicated that of the 102 pieces of art work that could not be ounted for by officials of the Art Procurement Program during our ew in 2000, all but 10 (valued at $10,410) have been located. The artment indicated that these 10 pieces of art work may have been lost en fire consumed two Government buildings in the 1990's.

as also indicated that to ensure the works of art are better inventoried easier to locate in the future, the following improvements to the Art curement Program have been initiated:

The Department is developing a relational database to more closely track the location of the works. This database is 90 percent complete. This information will be stored on the Government server which is backed up daily, thereby ensuring that the information will not be lost.

Items

Department will soon be developing an internal web site h will contain a digital photograph of every work of art in the ction. This will make it easier in the future to identify the s by sight. This web site will also be hosted on the rnment server.

permanent heads of every department and agency have inted representatives who will ensure that the policies related e program are adhered to, especially those dealing with ling and moving works of art. These representatives will re that no works will be moved without the knowledge or ent of the Department. These representatives will also uct periodic inventory counts.

mentation of acquisitions will be maintained beyond the nt six-month period. The Department will consult with the ncial Archives regarding an appropriate retention period for documents.

re and Recreation

art 3.24)

Report we commented on our review of Public Records. The ctive of our review was to assess whether the Records t Branch of the Provincial Archives and the various and Crown agencies were complying with all of the sponsibilities, requirements and mandates relating to public to assess whether there were adequate systems of control in ure compliance with legislation. Our review included an f the work of the Records Management Branch in providing dvice and direction to departments and Crown agencies.

of our review we concluded that records management in was not adequate.

2 we contacted the Department of Tourism, Culture and equesting an update as to the progress on the comments and tions included in our 2000 Report. The information provided tment in response to our request is outlined below.

Treasury I

3.2.9 Hu
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Introducti

ndicated that this is a difficult mandate to complete
s for records management within all Government
as managed to initiate the disposal process and
n departments to dispose of nearly 1,000 boxes of
e Records Centre in the past year.

n

ent Branch should fully comply with the direction
le direction to all departments and all Crown
care, custody, control, retention and disposal of
computerized records.

ndicated that PANL has developed a draft E-mail
ich is pending approval by Treasury Board. Also,
to offer its Records Management Course and
tments wherever possible.

partmental officials that, with existing resources,
progress was being made in improving the overall
Government.

nformation Systems

aries and benefits for public employees is
xpenditure. Total salaries and benefits, including
ts and Crown agencies, totalled $1.7 billion in
2000-2001). Of this $1.7 billion, Government
for $371 million comprised of $315 million in
n in employee benefits. Given the magnitude of
is critical that Government have the ability to
l control its human resources and related

d a Steering Committee in 1987 to develop a
erized Human Resource Management Information
ation scheduled for early 1993 at an estimated cost

of $2.1 millio
project was i
systems withi

In 1993 we e
Secretariat ar
planned syste
and informati
were in 1987 v

In 1994, Gove
system to adm
commissions
study and deve

In 1999, we
Resource Mar
was made si
Government h
no further sig
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functional are
have the requ
areas. We co
Human Resou

Update

In June 2002,
update as to th
in our 1999
response to ou

1999 Recomn

Treasury Boa
resource mana

Action Taken

Officials of th
will continue t
that system de
of automation
the Public S
exercise whic
automation of

esource management information system
rate payroll and other human resource

resource management at Treasury Board
there was a delay in implementing the
ted that existing human resource systems
were as diverse and incompatible as they
arted.

principle with a single centralized payroll
nsation budgets of all boards, agencies and
sury Board to proceed with a feasibility
plementation plan on a priority basis.

iew of the development of the Human
tion System to determine the progress that
concluded that as at 31 March 1995,
nately $4.3 million on this system and that
been incurred. At the time of our review,
bed or partially developed 5 of the 17
tified as necessary to address in order to
had made enhancements to 4 functional
vernment still did not have an adequate
nformation System.

Treasury Board Secretariat requesting an
comments and recommendations included
rmation provided by the Secretariat in
d below.

ould implement a comprehensive human
on system.

Secretariat indicated that the Secretariat
human resource functions for analysis and
e proposed where it is judged the benefits
xpenditures of implementation. In 2002,
ing a major human resource planning
elp identify areas for possible future
nanagement information.

Update on Prior Years

Department of Works,

3.2.10 Government A
(2000 Annual I

Introduction

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of the Air Services Division of the
Transportation. The objectives of our

cedures in place to effectively plan for
of the Province;

e adequate systems and procedures in
d disposition of Government-operated

e adequate systems and procedures in
f Government-owned aircraft;

nformation systems used to manage
s;

e adequate systems and procedures in
ilization and control associated costs;

vant legislation.

Department of Works, Services and
e operation and maintenance of a fleet
mbulances, 1 fire spotter and 8 water
chartering helicopters and fixed wing
ents. The cost to operate this Division
vernment departments also spent $5.8
d fixed wing charters.

Department's systems and procedures
ion were not adequate. For example:

Update on Prior Years' Report Items

Aircraft Acquisition and
System

- In 1997 the Departme
them in storage to be u
new planes had been p
that the two aircraft h
longer cost effective t
these two water bomb
had been taken to dispo
- The inventory at Air S
was not properly contr

Management of Aircraft Cos

- Air Services was
Management System
individual aircraft. A
analysis of these costs
and to industry standa
- Amounts being charge
accurate because the
produced informatio
allocations that could r
- The Division did not h
the rationale for contra
jurisdictions and third
have adequate inform
work to determine
beneficial to Governm
- The Division had be
accounts. This was
Administration Act wh
to expenditure accoun

Aircraft Operations

- There was both a la
information about
owned/chartered aircr
Government policy an

and Inventory Management

ed two water bombers and placed
ck up to the existing fleet after two
In 1999 Air Services determined
orated to the point that it was no
h them. At the time of our audit,
in unheated storage and no action
bsolete aircraft.

alued at approximately $3 million,

izing Government's Financial
ify the costs of operating each
lt, there was no comparison and
, between aircraft, by hours flown

s of Government aircraft were not
for the accumulation of costs
contained errors and overhead
ported.

uate information on file to support
aircraft and other services to other
Furthermore, the Division did not
how the final result of its contract
these contracts were financially

ging expenditures to its revenue
t contravention of the *Financial*
res that all expenditures be charged

nformation and inconsistency of
ers traveling on Government-
s was not in accordance with both
ort Canada Regulations.

- There were several weaknesses with respect to the payment of invoices for departmental charters. In many cases key documents to support the payment of the invoice were incomplete and in some cases, not attached to the invoice.

- There were a number of cases identified where aircraft charters that exceeded $10,000 were not publicly tendered. This is in direct contravention of the *Public Tender Act*.

Human Resource Management

- The Department had not established a human resource succession plan for Air Services, even though all of senior management and many of the pilots were approaching normal retirement age.

- Air Services incurred significant overtime expenditures due to the emergency nature of its operations, however, overtime was not properly monitored and controlled.

- It was found that attendance records were not accurate, complete or always approved by management.

Update

In June 2002, we asked the Department of Works, Services and Transportation to inform us as to the progress made on our 2000 recommendations. The Department's response to each of these recommendations is outlined below:

Aircraft Acquisition and Disposal and Inventory Management System

2000 Recommendation

Air Services should implement adequate controls over its inventory.

Action Taken

Departmental officials indicated that the two water bombers removed from service in 1997 are still in storage. In an effort to dispose of these aircraft, a tender was issued and approval was received to make an offer to purchase to the highest bidder. However, due to unavoidable delays and the events of September 11, the bidder did not accept the offer. The Department is currently seeking further direction on the disposal of the aircraft.

It was also indicated that a computerized inventory and maintenance system (WinAir) was recently installed. Reductions in inventory levels were indicated to be of the highest priority, with this new system helping the Department's effort to reduce inventory levels and also helping control the parts inventory and maintenance requirements of the Air Services Division.

Management of Aircraft Costs

2000 Recommendations

Financial systems should be better utilized to identify the costs of operating each individual aircraft.

Air Services should comply with the Financial Administration Act *and charge expenditures to expenditure appropriations approved by the House of Assembly rather than revenue accounts.*

Action Taken

Departmental officials indicated that the newly implemented computerized inventory maintenance system (WinAir) is being used to assist the management team in calculating operating costs for all aircraft. It is believed this data will improve the accuracy of contract and hourly charge rates used for billing users of Government-owned aircraft.

It was also indicated that the Department has not bid on any air service contracts since the time of our 2000 report. If such bids were issued and were successful, the Department would request an appropriation to offset the expected expenditures and the revenue garnered would be deposited into general revenue as per the *Financial Administration Act*.

Aircraft Operations

2000 Recommendations

Air Services should comply with Transport Canada Regulations and the direction of Cabinet regarding documentation on the use of aircraft and passenger information. Direction should also be provided to Government departments.

Government departments should comply with the Public Tender Act *in the acquisition of aircraft charters.*

Controls over payment for aircraft charters should be improved.

Action Taken

Departmental officials indicated that Transport Canada has approved changes to the administration procedures with respect to passenger manifests and related documentation and that in January 2002, a revised procedure manual was re-issued to all relevant parties. We were advised that the Department is committed to ensuring all documentation is accurate, complete and complies with federal and provincial regulations.

Departmental officials also indicated that they continue to reinforce tender procedures for fixed wing charters exceeding $10,000. They also indicate that the majority of charters fall below this threshold, but on occasion, some Medivac flights and bookings from other Government departments are of an emergency nature. In such cases, when timing is critical, telephone quotes are garnered, as per the *Public Tender Act*.

Human Resource Management

2000 Recommendation

Air Services should adequately control overtime incurred by staff and comply with Government policy on compensation packages.

Action Taken

Departmental officials indicated that overtime is reviewed as it is incurred, with status reports submitted as required. An intensive Departmental review of overtime has been completed and several suggestions from this review have been implemented to ensure the control and monitoring of overtime. As well, an organizational-wide human resource planning initiative is currently underway and is expected to address the issues facing the Department such as retirement, overtime and recruitment.

Department of Youth Services and Post Secondary Education

3.2.11 Memorial University of Newfoundland (1994 Annual Report, Part 4.9)

Introduction

In 1994 and again in our annual updates from 1996 to 2001 we concluded that the Department of Education, now the Department of Youth Services and Post Secondary Education, did not have an adequate system of accountability in place over grants paid to Memorial University of Newfoundland. Although the University received approximately

$129 million during 2001-02, there was still inadequate accountability over this funding.

We have recommended that a system of accountability be established over grants to the University. This system should include, but not be restricted to, the following components:

- Roles, responsibilities and duties of the Department of Youth Services and Post Secondary Education and Memorial University should be well defined and communicated. These should be included in legislation and further defined in policy.
- There should be adequate reporting to the Department of Youth Services and Post Secondary Education and to the House of Assembly. This includes both financial and performance monitoring.
- The system of accountability should be strengthened by an independent audit process to assess the fairness of the University's representations on performance and to assess management systems and controls.

date

In June 2002, we contacted the Department of Youth Services and Post Secondary Education to ascertain any progress on the comments and recommendations included in our 1994 report.

Departmental officials indicated that, in regards to financial accountability, the University is required to submit an annual budget, specific supplementary financial information and other relevant information. Audited financial statements and the auditor's management letter are required at the fiscal year end. The Department also interacts on a regular basis with University officials to ensure that there are adequate accountability measures in place related to the public funds advanced to the University.

partment of Youth Services and Post Secondary Education

.12 College of the North Atlantic (2000 Annual Report, Part 3.9)

roduction

In 2000, we performed a review of the College of the North Atlantic. Our review was directed to assessing the College's financial position, and reviewing the adequacy of controls over capital assets, purchasing and payroll.

In 2000, we concluded that the financial position of the College had deteriorated after the reorganization of the college system in 1997. In addition, we found that there were significant weaknesses in controls over capital assets, the College did not always comply with the *Public Tender Act*, there were serious problems in the processing and payment of travel expenditures, there was no monitoring of cellular phone costs, there were no policies on the acquisition and administration of cellular phones, and there was inadequate monitoring of staff positions.

In June 2002, we contacted the College requesting an update as to progress on the comments and recommendations included in our 2000 report. The information provided by the College in response to our request is outlined below.

Financial Position

2000 Recommendations

The College should monitor its financial position closely particularly in areas such as contract training, community education, and resale that have not met budget targets in the past. These areas should be allocated on appropriate share of overhead costs.

The College should develop a correlation between its funding, number of students and programs and numbers of employees so as to support its budgetary demands.

Action Taken

College officials indicated that they continue to monitor the College's financial position very closely to enable them to manage the resources at their disposal and the reductions in those resources. Contract training, community education and resale receive extra attention. A Chair has been hired to lead the contract training and community education activities, and new systems and additional training are being implemented in bookstores.

It was also indicated that financial analysis continues to be refined to show accountability and stewardship over resources. Costing data and ratio analyses are regularly updated and reviewed to monitor and show trends and identify areas for operational improvements.

Capital Assets

2000 Recommendation

The College should identify, record and monitor its capital assets.

Action Taken

College officials indicated that the implementation of a fixed assets database and a fixed assets policy, underway at the time of the 2000 review, has been completed. It was also indicated that as a result of the capital asset valuation and compliance to Canadian generally accepted accounting principles, the external audit of the College's financial statements for the year ending 31 March 2002 has been unqualified for the first time.

Purchasing

2000 Recommendation

The College should comply with the Public Tender Act*. Expenditures such as travel, professional development, advertising and cellular phones should be monitored and controlled.*

Action Taken

College officials indicated that maximum effort is exercised to comply with the *Public Tender Act*. Any incidents of non-compliance are unintentional and have been reviewed with management and purchasing staff for correction. Expenditures for travel, professional development, cellular phones and advertising are monitored very closely and are addressed in specific policies. Advertising expenditures are not covered by policy, but are closely monitored. A new marketing plan will be completed very shortly and will result in additional control over advertising.

Payroll

2000 Recommendations

The College should develop a salary position and monitoring system to identify each employee position and the status and salaries of these positions.

Report Items

College should comply with Government's personnel policies and cedures.

ion Taken

lege officials indicated that a salary position and monitoring system been developed and its use is being refined. Management is reviewing most recent data for 2002-03 for accuracy and completeness. The gram plan for 2003-04 is largely complete, so the staff complement for year will be prepared over the next several months in preparation for lizing the budget for that period.

as also indicated that the College exercises maximum effort to comply Government's personnel policies and procedures. Any incidents of -compliance are unintentional.

ountability

0 Recommendation

College should prepare an annual report for release to the House of embly and the general public. This report should include both ncial and statistical information compared to established standards.

ion Taken

lege officials indicated that an annual report is submitted to the ister, as required by the *College Act, 1996*, and that it is available to stakeholder. The report includes financial and statistical data, ribes the College's operations and successes, and highlights the issues d. It was also indicated that these reports have been produced each since the College was formed, and continue to improve.